



**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: California Service Center

Date:

MAR 25 2008

[WAC 05 134 78234]

INRE:

Applicant:



APPLICATION:

Application for- Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The re-registration application was denied by the Director, California Service Center (CSC). An appeal was dismissed by the Director, now Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The case will be reopened and the appeal will again be dismissed.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the current application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

A subsequent appeal from the director's decision was dismissed on March 26, 2007, after the Chief of the AAO also concluded that the applicant was not eligible to re-register for TPS. The AAO also determined that the applicant failed to show that the current application should be accepted as a late initial registration. In addition, the AAO determined that the applicant did not establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. On April 25, 2007, the applicant submitted a motion to reopen.

On motion to reopen, the applicant asserts that he has lived in the United States since 1998. The applicant also states that his father, _____ was granted TPS. The applicant submits copies of some documentation in an attempt to establish his eligibility TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted Tps. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;

- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

A review of the record of the applicant's father, [REDACTED] reflects that his TPS application was denied on March 11, 2004, and a subsequent appeal was dismissed by the AAO on July 23, 2007. Therefore, the

applicant does not fall within the category as described in 8 C.F.R. § 244.2(f)(2)(iv). Further, the applicant has not submitted any evidence to establish that he has met any of the other criterion for late registration described in 8 C.F.R. § 244.2(f)(2). As such, this issue on which the underlying decision was based has not been overcome on motion.

Moreover, the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). The record of proceedings contains a copy of the applicant's passport signed by the applicant and issued to him in Honduras on January 30, 2001. As such, this issue on which the AAO has also denied the application has not been overcome on motion.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. That burden has not been met.

ORDER: The appeal is dismissed.