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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



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

*MI*

FILE:

[REDACTED]  
[WAC 05 097 71811]

Office: Vermont Service Center

Date: **NOV 03 2008**

IN RE:

Applicant: [REDACTED]

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 Vermont Service Center. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will 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 record reveals that the applicant filed a TPS application during the initial registration period on July 22, 1999, under receipt number LIN 99 229 51770. The Director, Nebraska Service Center (NSC), denied that application for abandonment on January 7, 2000, because the applicant failed to respond to a request for evidence establishing his date of entry, continuous residence and continuous physical presence in the United States during the qualifying period. The record does not reflect that the applicant filed a motion to reopen the director's decision within the allotted timeframe.

The applicant submitted a subsequent TPS application on July 1, 2002, under receipt number LIN 01 122 41893. The NSC director denied that application on February 24, 2003, because the applicant failed to establish his eligibility for late initial registration. The applicant submitted an appeal from the director's decision on March 18, 2003, which was dismissed by the Director (now Chief) of the AAO on November 21, 2003, after he concurred with the director's denial decision. The Chief also found that the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite period. On December 15, 2003, the applicant submitted a motion to reopen the AAO's decision. The Chief of the AAO granted that motion and dismissed the appeal on April 15, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 7, 2005, and indicated that he was re-registering for TPS. The Director, California Service Center, denied the re-registration application on July 1, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that he does not have money to pay for an attorney, but he has proven that he qualifies for 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).

Beyond the director's decision, it is noted that a Federal Bureau of Investigation Fingerprint Report indicates the applicant was arrested on July 22, 2002, by the Police Department Gurnee, Agency Case No. [REDACTED] and

charged with Count (1) – INSURANCE – OPERATE UNINSURED; Count (2) – TOO FAST FOR CONDITIONS SPEED; Count (3) – NO DRIVERS LICENSE/PERMIT; and, Count (4) – FAIL TO GIVE AID OR INFORM. The final court dispositions for these charges, however, are not contained in the record. CIS must address this arrest and any conviction in any future proceedings.

An alien applying for temporary protected status 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. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.