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

MJ

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 03 2008**

[WAC 05 230 50504, *appeal*]
[WAC 05 096 80023]

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:

[REDACTED]

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 application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number EAC 01 089 50796 after the initial registration period had closed. The director denied that application on July 23, 2005, after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

Since the application was denied due to abandonment, there was no appeal available; however, the applicant could have filed a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe. After review of the record, the Chief, AAO, affirms the director's denial decision.

The applicant filed the current Form I-821 on January 4, 2005, and indicated that he was re-registering for TPS.

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

If an alien is filing a re-registration application, 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.

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).

Given that the applicant entered the United States by wading the Rio Grande River on June 13, 1999, it is determined that he can not establish his continuous residence since December 30, 1998 and continuous physical presence since January 5, 1999. 8 C.F.R. §§ 244.2 (b) and (c). Therefore, the application cannot be approved for these additional reasons.

It is noted that, in removal proceedings held "in absentia" on February 29, 2000, an Immigration Judge in Newark, New Jersey, ordered the applicant deported to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the Acting Field Office Director For Detention and Removal Operations of the Newark, New Jersey, office on June 13, 1999.

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 temporary protected status has the burden of proving that he or she meets the requirements cited 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.