U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 27 2004

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

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 section 244.3;

(e) Is not ineligible under 8 C.F.R. § 244.4; and

(f) (1) Registers for TPS 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.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on March 3, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On November 18, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence of nationality, evidence of continuous residence in the United States since December 30, 1998, and evidence of continuous physical presence in the United States since January 5, 1999. The applicant, in response, provided evidence of identity, documentation relating to his residence and physical presence in the United States, and evidence in an attempt to establish a prior initial registration for TPS on or around May 19, 2000.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on December 18, 2003.

On appeal, the applicant reiterates his assertion that he filed a prior Form I-821, Application for Temporary Protected Status, on or around May 19, 2000. He submits the following, relevant evidence in support of his assertion:

1. a Form I-765, Application for Employment Authorization, signed by the applicant on August 2, 2001; a money order dated August 2, 2001 in the amount of $100; a certified mail receipt showing the applicant mailed a package on August 3, 2001; and, a Form I-821 signed by the applicant on August 2, 2001;

2. a Form I-765 signed by the applicant on May 15, 2000; a money order dated May 15, 2000, addressed to the Immigration and Naturalization Service (now CIS) in the amount of $100; a money order dated May 15, 2000 addressed to the Service in the amount of $25 for "TPS fingerprints"; a money order dated May

15, 2000, addressed to the Service in the amount of $50 for the Form I-821 filing fee; and, a Form I-821 signed by the applicant on May 15, 2000;

3. a United States Postal Service return receipt indicating mail was received at the California Service Center on May 19, 2000; and,

4. a Form I-797C, Notice of Action, acknowledging receipt of a Form I-765 from the applicant on May 19, 2000.

Although it appears the applicant may have attempted to file a Form I-821 at the California Service Center on or around May 19, 2000, CIS computer records contain no indication that such an application was received at the California Service Center on that date. Even if the applicant did file a prior Form I-821 on or around May 19, 2000, that application would also have been untimely filed, since the initial registration period for Hondurans ended on August 20, 1999. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.