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U.S. Citizenship
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Services

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FILE:

[REDACTED]
[SRC 03 212 54201]

Office: TEXAS SERVICE CENTER

Date:

APR 28 2005

IN RE:

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

Cindy N. Gomez
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 she was eligible for late registration.

On appeal, the applicant submits a statement and resubmits documentation that had been previously entered into the record.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant did file an initial application for TPS during the initial registration period [SRC 99 189 50241]. That application was denied due to abandonment on July 3, 2000, based upon the applicant's failure to respond to a May 16, 2000, request for additional evidence to establish her: date of entry prior to December 30, 1998; continuous residence in the United States since December 30, 1998; and, nationality. It is noted that the letters were mailed to the most recent address provided by the applicant as of that date. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for 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.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on July 28, 2003. The director denied this second application because it was filed outside of the initial registration period and because the applicant had failed to establish her eligibility for filing under the provisions of late registration. Since the applicant did properly file an application during the initial registration period, and although the director found the applicant ineligible for TPS because she had failed to establish eligibility for late registration, the director's decision did not sufficiently explain the entire basis for denial.

The applicant's initial Form I-821 was properly filed on June 2, 1999. That initial application was denied by the director on July 3, 2000. Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision rendered, must be considered as either a request for annual registration or as a new filing for TPS benefits.

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.

The applicant filed this subsequent Form I-821 on July 28, 2003. Since the initial application was denied on July 3, 2000, the subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as a late registration.

copies of CIS correspondence including receipt notices for prior applications, decision letters, fingerprint fee receipt and appointment notices, and copies of her 1999 TPS application.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on December 30, 2003.

On appeal, the applicant asserts that she did file an application during the initial registration period. She believes that she now qualifies for late initial registration under the provisions of 8 C.F.R. § 244.2(f)(2)(ii), as a person who had 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, based upon her earlier TPS application. The applicant resubmits evidence that had already been entered into the record.

The provisions of 8 C.F.R. § 244.2(f)(2)(ii) and (g) provide for late initial registration for applicants who have 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, and who file an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of such conditions. However, a previously filed, pending, and/or denied TPS application does not qualify an individual under the provisions of 8 C.F.R. § 244.2(f)(2)(ii).

The applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. The applicant has not submitted any evidence to establish that she 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.

Beyond the decision of the director, the applicant has provided insufficient evidence to establish her qualifying continuous residence and continuous physical presence during the requisite time periods. Other than correspondence from CIS, the evidence of record consists of three affidavits from individuals attesting to the applicant's residence in the United States, and a State of Texas identification card issued in the year 2000. The regulations at 8 C.F.R. § 244.9 do not stipulate that uncorroborated personal affidavits may alone establish continuous residence and continuous physical presence in the United States for obtaining TPS benefits. Therefore, the applicant also has failed to establish that she has met the provisions of C.F.R. § 244.2(b) and (c) and the application must also be denied for these reasons.

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.