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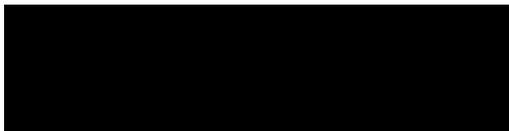
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JUL 20 2006
[WAC 05 099 72028]

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:



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, 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 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 who is a national of a foreign state designated by the Attorney General is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

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 January 7, 2005.

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.

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.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on April 11, 2005.

On appeal, the applicant states that he qualifies for late initial registration because he had a pending application for suspension of deportation during the initial registration period for Hondurans.

The record reveals that the applicant filed a Form I-589, Request for Asylum in the United States, on March 3, 1993. On July 29, 1996, the applicant's asylum application was denied and he was referred for a removal hearing before an Immigration Judge. On December 1, 1996, the applicant filed a Form EOIR-40, Application for Suspension of Deportation. On June 19, 1997, an Immigration Judge in Los Angeles, California, denied the applicant's applications for asylum and suspension of deportation. The judge granted the applicant the privilege of voluntary departure to Honduras on or before November 20, 1997, with an alternate order of removal if the applicant failed to depart in compliance with the grant of voluntary departure. On July 16, 1997, the applicant filed an appeal from the judge's order with the Board of Immigration Appeals (BIA). CIS computer records indicate that the BIA administratively closed the proceeding on June 29, 1999, to allow the applicant to apply for TPS.

In order to qualify for TPS base on a pending application for suspension of removal, the applicant must establish that he filed his TPS application within 60 days of the date his application for suspension of deportation terminated. Since the applicant's proceeding was administratively closed on June 29, 1999, he was required to

file his TPS application within 60 days of that date. The applicant did not file his TPS application until January 7, 2005. Therefore, he cannot qualify for late initial registration on this basis.

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 TPS will be affirmed.

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. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.