

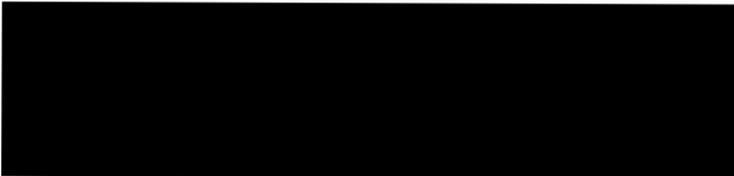
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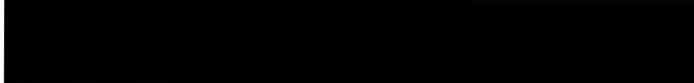
[WAC 05 103 81679]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 26 2006

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.

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

for 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 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 her initial TPS application on July 6, 1999 under CIS receipt number SRC 99 216 52681. The director denied that application for abandonment on May 19, 2004, because the applicant failed to respond to a March 16, 2004 request to submit evidence to establish her continuous residence and continuous physical presence in the United States during the qualifying period. The applicant failed to appeal the director's decision. There is nothing in the record to indicate that the applicant filed a motion to reopen the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 11, 2005, and indicated that she 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.

On appeal, the applicant states that she has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on January 11, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she 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 or she 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 or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The applicant states on appeal that she did not receive "the denial notice dated March 19, 2004." The March 16, 2004 notice of intent to deny her application, as well as the May 19, 2004 denial notice, were mailed to [REDACTED] the address the applicant provided on a Form I-821 application submitted on July 11, 2005. Neither notice was returned by the U.S. Postal Service as undelivered. It is noted CIS had previously sent requests for additional evidence on January 3, 2003, September 6, 2002, February 20, 2002, and April 7, 2000 to the most recent addresses furnished by the applicant. Likewise, none of these notices were returned as undelivered. According to the applicant, she entered the United States in 1998 and has provided all of the requested evidence. The applicant also states that she applied for TPS not asylum. In addition the applicant submits the following:

1. Copies of Form I-797C Notices dated January 13, 2005, January 18, 2005 and May 17, 2005.

2. Copies of a State of Florida Identification Card issued on November 18, 1999, and employment authorization card, a Social Security Card, a State of Florida Learner License issued on June 4, 2000, and the first page of her Honduran passport.
3. Copies of receipts from [REDACTED], dated June 23, 1999, June 17, 2000, July 16, 2000, and August 12, 2001, receipts from [REDACTED] dated October 12, 1998, October 25, 1998, December 19, 1998, January 31, 1999, and March 10, 1999.
4. Copies of statements from [REDACTED] and [REDACTED]
5. A copy of a 1998 Form 1040, U.S. Individual Income Tax Return and the first page of a undated Form 1040.

The State of Florida Identification Card and three of the Tele-Giros receipts indicate the applicant was present in the United States prior to December 30, 1998. Similarly, the 1998 Form 1040 indicates the applicant was present in the United States during 1998. However, these documents cannot establish the applicant's continuous residence since December 30, 1998 and continuous physical presence from January 5, 1999 to the filing date of the TPS application. [REDACTED] the applicant's sister, states that the applicant came to Miami, Florida from Honduras. [REDACTED] states that she employed the applicant from April 15, 1997 to June 1998. [REDACTED] states that she has known the applicant since they lived in Honduras. The statements from [REDACTED] and [REDACTED] fail to indicate the dates of the applicant's presence in the United States. In addition, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. [REDACTED] statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of her employment. It is further noted that the affiant did not indicate the applicant's duties of employment. The remaining evidence is dated subsequent to the qualifying dates to establish continuous residence and continuous physical presence.

It is also noted that the applicant is correct that she did not apply for asylum. CIS incorrectly issued a receipt notice indicating the applicant's employment authorization was based on an asylum application, but it should have indicated a TPS application for which the applicant had actually applied.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

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 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.