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

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FILE:



Office: California Service Center

Date: **APR 03 2007**

[WAC 05 103 78824]

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 cursive script, 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 (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 a TPS application on March 15, 1999, under Citizenship and Immigration Service (CIS) receipt number LIN 99 139 52094. The Nebraska Service Center (NSC) director denied that application on December 14, 1999, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. The NSC director reopened the proceedings on June 17, 2000, and denied the application again on May 19, 2003.

On July 2, 2002, the applicant filed a subsequent TPS application under CIS receipt number LIN 02 252 50201. The NSC director denied that application on February 19, 2003, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. The applicant also failed to establish his eligibility for TPS late registration. On March 19, 2003, the applicant filed an appeal which was dismissed by the AAO on October 16, 2003. The applicant filed a motion to reopen on May 13, 2004, which was dismissed by the AAO on January 5, 2006.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 11, 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 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, 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).

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application must also be denied for these reasons.

Although not addressed by the director, the record of proceedings contains a Federal Bureau of Investigation report reflecting that the applicant was arrested by the Waukegan Police Department on August 27, 2001, and

charged with the offense of "Soliciting For A Prostitute." In any future proceedings before CIS, the applicant must submit evidence of the final court disposition of this arrest and any other charges against him.

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.