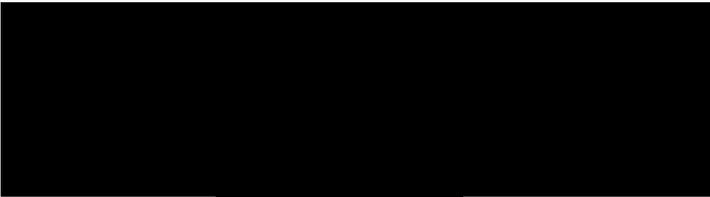




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



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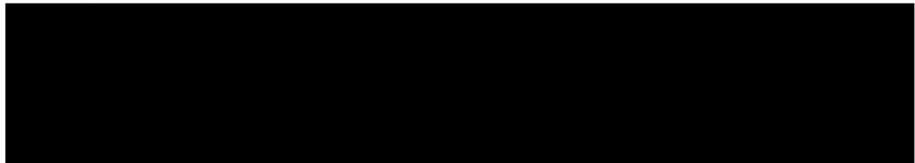
Office: California Service Center

Date: APR 30 2007

[WAC 05 221 70911]

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.

Handwritten signature of Robert P. Wiemann in black ink.

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 late initial TPS application on May 6, 2006, under CIS receipt number WAC 05 221 70911. The director denied the application on May 18, 2006, because the applicant failed to establish that she was eligible for late initial registration for TPS. The director noted that the applicant did not qualify for late registration as the spouse of a TPS registrant as the applicant was not married to a TPS registrant prior to, or during, the initial registration period.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2007, upon the applicant's re-registration during the requisite period.

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).

With her TPS application, the applicant indicated that she is eligible for late initial registration as the spouse of a TPS registrant. In support of her claim of eligibility to register for late initial registration for TPS, the applicant submitted a marriage certificate, indicating her marriage to [REDACTED] on December 21, 2004; and, a TPS approval notice, Form I-797, for [REDACTED] dated July 28, 2006, indicating TPS validity from January 5, 2005 to July 5, 2006.

On appeal, the applicant states that she has been living together, in a common law relationship, with her husband prior to February 2001. With her appeal, in an attempt to establish eligibility for late initial registration, the applicant submits the birth certificate for her child, born on May 31, 2002.

The applicant's claimed common law marriage to a TPS registrant has not been established. Although the applicant claimed that she has had a common law marriage to [REDACTED] since prior to February 2001, a review of the A-File for [REDACTED] reveals that [REDACTED] listed his marital status as "single" on his TPS applications, Form I-821, filed on June 24, 2002, and in June 2002; and on his Form I-765, Application for Employment Authorization, filed in 2001, and 2002. On these TPS applications, in Part 3, under "Information about your spouse and children (if any)," [REDACTED] inserted "none" where the application called for the spouse information. However, on his TPS application filed January 12, 2005, the applicant listed his marital status as "married", and stated that the marriage took place on December 21, 2004 in San Jose, California. This casts doubt on whether the applicant and [REDACTED] had a common law marriage prior to February 2001, as the applicant claims. Doubt cast on any aspect of the applicant's proof may lead to a

reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies within her TPS application. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish her eligibility for late initial registration as the spouse of a TPS registrant.

The evidence of record does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period.

As noted by the director, the applicant was not married to a TPS registrant prior to, or during the initial registration period. While the regulations may allow spouses of aliens who are TPS eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements of eligibility for TPS.

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.

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.