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U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: California Service Center

DATE:

FEB 15 2007

[WAC 05 077 73809]

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. Wiemand".

Robert P. Wiemand, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be a 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 on the ground that the applicant is ineligible for TPS because she did not file an application during the initial registration period for nationals of Honduras.

On appeal, the applicant asserts that she had been applying for TPS since June 16, 1999, which was during the initial registration period, and that she has regularly renewed her application since then.

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.

Applicants for TPS from Honduras 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 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. *See* 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. *See* 8 C.F.R. § 244.9(b).

The evidence of record includes a series of Applications for Employment Authorization (Form I-765), together with a series of Applications for Temporary Protected Status (Form I-821), which the applicant submitted to the California Service Center in the years 2001 to 2004. Though the first three Form I-821s have stamped receipt dates of June 20, 2001, June 12, 2002, and June 30, 2003, respectively, and each is identified as an annual re-registration application, none of those applications was officially filed with the service center at the time of receipt. The regulation at 8 C.F.R. § 244.7(c) provides that in filing a Form I-821 “[e]ach applicant must pay a fee,” the amount of which, as specified in 8 C.F.R. § 103.7(b) was \$50.00 in those years. The applicant does not appear to have paid the requisite filing fees since none of the Form I-821s submitted in 2001, 2001, and 2002 bears a fee stamp from the California Service Center. The first Form I-821 from the applicant that was officially filed with the service center, also identified as a re-registration, bears a receipt stamp of December 16, 2004.

On April 21, 2005, the director issued a Request for Evidence (RFE) in which the applicant was advised that Citizenship and Immigration Services (CIS) records did not indicate that a TPS application had been filed by the applicant at any time prior to December 2004. The applicant was requested to submit a copy of a Form I-797, Notice of Receipt or Notice of Approval, demonstrating that a TPS application was filed during the initial registration period in 1999. Alternatively, the applicant was requested to submit evidence that she qualifies for late registration.

In response to the RFE the applicant asserted that she originally filed for TPS in June 1999 and submitted a copy of a document she claimed was her original Form I-821. The submitted document is not a copy of a Form I-821 filed in June 1999, however, since it was dated by the applicant on November 7, 2005, and bears no receipt stamp of the California Service Center.

By decision dated December 22, 2005, the director determined that the applicant had failed to establish her eligibility for TPS under 8 C.F.R. § 244.2, because the record showed that the applicant's first TPS application was filed on December 16, 2004, long after the expiration of the initial registration period on August 20, 1999, and there was no evidence that the applicant qualified for late registration.

On appeal, the applicant contends that her initial application for TPS was filed on June 16, 1999, during the initial registration period for Hondurans, and that she has re-registered as required in the intervening years. In support of the appeal the applicant submits a photocopy of another Form I-821 with the applicant's signature and dated, at the end of the form, June 16, 1999. The form bears no receipt stamp of the California Service Center, however, demonstrating that it was actually submitted to the service center in June 1999. Nor does the applicant provide any explanation as to why the subject document was not submitted earlier in this proceeding. Documentation previously submitted by the applicant did not include any evidence of a Form I-821 dated earlier than June 2001.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). No such competent evidence has been submitted by the applicant to establish that she filed a TPS application during the initial registration period for Hondurans in 1999. Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.*

Lastly, there is no evidence in the record to indicate that the applicant meets any of the criteria described in 8 C.F.R. § 244.2(f)(2) to qualify for late registration.

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.