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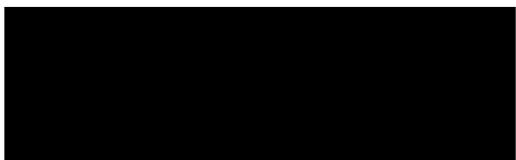
U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: California Service Center

Date: MAY 29 2007

[WAC 05 097 76443]

IN RE:

Applicant:



PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 (AAO) on appeal. The appeal will be dismissed.

The applicant is stated to be 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 an initial TPS application on March 19, 1999 under CIS receipt number SRC 99 145 51122. The director, Texas Service Center, denied that application on December 16, 2003, for abandonment because the applicant failed to respond to an October 10, 2003, request for evidence to establish her eligibility for TPS. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The director noted that the notice of intent to deny was sent to the applicant's last known address and it was not returned as undeliverable. It is also noted that the denial decision was also mailed to the applicant's last known address and was not returned as undeliverable. The record does not reflect that the applicant filed a motion to reopen within the requisite period.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 5, 2005, and indicated that she was filing an initial TPS application. The director, California Service Center, categorized the application as a re-registration for TPS, and denied the application, on April 21, 2006, 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 did not receive notice that the prior application was denied, and asserts that she re-applied for TPS as the spouse of a TPS registrant. With her appeal, the applicant submits a photocopy of:

- A Honduras national identification card;
- An Employment Authorization Card that expired on January 5, 2005;
- An Employment Authorization Card, for [REDACTED], that expired on January 5, 2005;
- A marriage certificate, indicating the applicant's marriage to [REDACTED] took place on November 29, 1999;
- 2 pay stubs, issued in 2001, from Las Americas Mexican Grill;
- A hand-written invoice from Satellitele, dated August 26, 1998;
- An unclear mail envelope;
- W-2 Wage and Tax Statements for 2000, 2001, and 2003;
- A 2003 U.S. Individual Income Tax Return, Form 1040; and,
- A Money Gram international money order, dated May 15, 2006.

Although the applicant claims that she did not receive the initial denial decision, as noted above, the denial decision was mailed to the applicant's last known address and was not returned as undeliverable.

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.

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 this application with Citizenship and Immigration Services (CIS) on January 5, 2005.

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

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.

It is noted that although the notice of intent to deny was sent to the applicant's address of record, as noted by the director, it was not returned as undeliverable.

As noted above, the applicant asserts on appeal that she is eligible for TPS because her spouse is a TPS recipient. The record of proceedings reflects that the applicant married [REDACTED], a TPS registrant, on November 29, 1999. In order to qualify for late initial registration, the marriage must have taken place before or during the initial registration period for Hondurans from January 5, 1999 through August 20, 1999. 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.

Beyond the decision of the director, the record contains a national identification card for the applicant; however, the applicant did not submit a birth certificate, with an English translation. In addition, the applicant has not submitted sufficient evidence to establish continuous residence and continuous physical presence in the United States during the requisite periods. Therefore, the application must be denied for these additional reasons.

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.