



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 074 71576]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 07 2007

IN RE: Applicant: [REDACTED]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office 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 Form I-821, Application for Temporary Protected Status on April 26, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 158 54789. The application was denied by the Director, Texas Service Center (TSC), on July 24, 2002, because the applicant failed to submit evidence that she was eligible to apply for TPS after the initial registration period from January 5, 1999 to August 20, 1999.

The applicant submitted a Motion to Reopen on August 26, 2002 and claimed that she was eligible to file a late initial registration because her husband was eligible to apply for TPS. The motion was granted by the TSC director and her application for TPS was reopened on September 17, 2002. She was also required to provide CIS with a copy of her marriage certificate within 30 days of the notice. On December 11, 2002, the TSC director issued another decision denying her TPS application because the applicant failed to submit the requested evidence and, therefore, had abandoned her application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 13, 2004 and indicated that she was re-registering for TPS.

The CSC director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was therefore not eligible to apply for re-registration under 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.

On appeal, the applicant submits a copy of her marriage certificate with an English translation.

In this case, the applicant had 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 parole; 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 Honduras was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on December 13, 2004.

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 on appeal submits a photocopy of her marriage certificate and claims that she is eligible for TPS because her spouse had been granted TPS. However, a review of the record reveals that the applicant and the man she claims to be her husband, both claimed to be single in their applications before 2003.

The applicant did not indicate on her applications that she was married until she filed her TPS application for re-registration on May 28, 2003. Her alleged spouse declared to the United States Border Patrol that he was single when he was apprehended on May 17, 1998, while attempting to enter the United States illegally in Brownsville, Texas. He also marked his TPS applications as single when he submitted them on July 7, 1999, May 30, 2000, May 21, 2001, and May 22, 2002. Her husband did not start claiming her as his wife until he filed his TPS application on May 20, 2003.

The above inconsistencies cast doubt as to the credibility of the applicant's claim that she was married to a spouse who is currently eligible for registration under TPS, during the initial registration period.

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 also 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.