

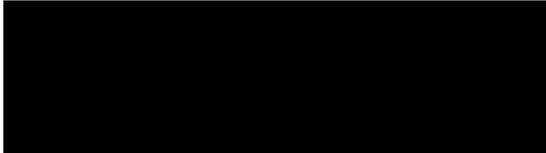
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
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FILE:



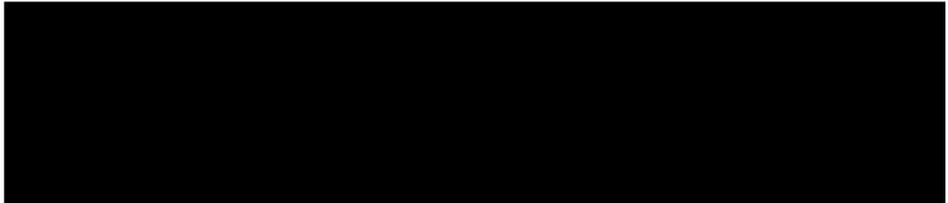
Office: CALIFORNIA SERVICE CENTER

Date: NOV 23 2007

[EAC 99 155 53423] [EAC 03 192 50602] [WAC 05 078 79744]

IN RE:

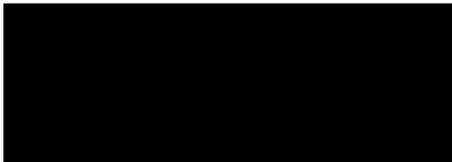
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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 initial TPS applications were denied by the Director, Vermont Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the 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 applicant filed an initial application for TPS under receipt number EAC 99 155 53423. The Director, Vermont Service Center, denied that TPS application on May 19, 2000, after determining that the applicant had abandoned his application by failing to respond to the director's request for evidence. The applicant filed another TPS application under receipt number EAC 03 192 50602. The Director denied this application on August 21, 2003, after determining that the applicant had failed to submit evidence to establish his eligibility for late registration.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 17, 2004, 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.

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.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on December 17, 2004.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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).

On appeal, the applicant states that he is eligible for TPS because he is the spouse of a TPS registrant who has been granted TPS status. The applicant submitted as evidence a copy of a marriage certificate along with an English translation, and a copy of a TPS approval notice for [REDACTED], file number [REDACTED]. The applicant also submitted copies of his tax documents, an employment verification letter, and pay stubs for the years 1998 through 2004.

The applicant submitted a marriage certificate that showed he was married to [REDACTED] on November 12, 1990, in Honduras. However, a review of the applicant's record of proceedings shows that he indicated on his Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return for the 2001 and 2002 tax years, question number 1., Filing Status "Single." It is further noted that the applicant indicated on his 2003 and 2004 tax returns, question number 1., Filing Status "Head of household," with a nephew and sister as dependants. It is also noted that the applicant indicated that he was "Single" on his Forms I-821, Application for Temporary Protected Status, and Forms I-765, Application for Employment Authorization, dated February of 1999, September of 2000, May of 2001, and June of 2003. [REDACTED] [REDACTED] indicated that she was "Single" on her Forms I-821, Application for Temporary Protected Status, and Forms I-765, Application for Employment Authorization, dated June of 1999, August of 2000, June of 2001, June of 2002, and May of 2003. She also indicated that she was the "Head of Household," with one dependant son, on her IRS Form 1040, U.S. Individual Income Tax Return for the 2000 tax year.

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 inconsistencies. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to demonstrate his eligibility for late registration under 8 C.F.R. § 244.2(f)(2), as the spouse of a TPS registrant. Therefore, the application also must 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.