

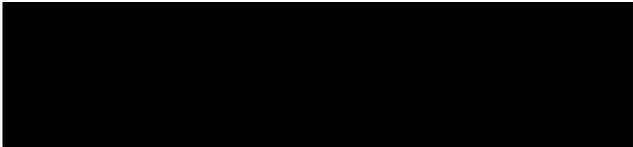
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE JAN 11 2008

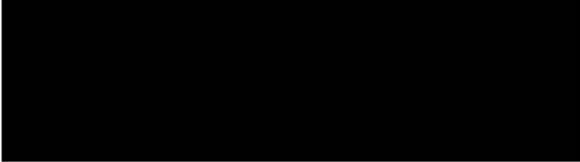
IN RE:

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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vennont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. 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 because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant asserts that she previously filed her initial Fonn 1-821, Application for Temporary Protected Status, but has no evidence to support her assertion. The applicant states, "I reached out to the agency who prepared my initial application called CEJA Enterprises Inc. Unfortunately they are unable to produce a copy of the application as well since they dispose of all paper documents after 5 years." The applicant provides a letter from: 1) a representative of Ceja Enterprises, Inc. in Nashville, Tennessee who states that the applicant had filed a Fonn 1-821 application "after the Mitch disaster"; and 2) her sister, [REDACTED] who indicates she was present at the time the applicant filed her TPS application on June 2, 1999. The applicant requests that her statement along with her sister's and the representative's be accepted as evidence of filing the Fonn 1-821 application 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 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.

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 initially filed her TPS application with Citizenship and Immigration Services (CIS) on June 24, 2002, under CIS receipt number SRC0220856600. The Director, Texas Service Center, denied that application on August 30, 2002, because the applicant failed to establish she was eligible for late registration. No appeal was filed to the denial of that application.

The applicant filed a second Form I-821 application on November 24, 2004, under CIS receipt number WAC0506170468 and indicated that it was her first application to register for TPS. The Director, California Service Center, denied that application on July 1, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant's appeal from the denial of that application was dismissed on March 3, 2006, as the AAO concurred with the director's findings. The AAO also found that the applicant had failed to establish late registration eligibility.

The applicant filed the current Form I-821 application on July 2, 2006, and indicated that it was her first application to register for TPS.

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 director determined that the applicant had failed to establish she was eligible for late registration and denied the application on June 15, 2007.

On appeal, the applicant claims that she filed a TPS application during the initial registration period; however, except for the letters from Ceja Enterprises and her sister, she has no evidence to support her claim.

Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158,165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The letter from

her sister must be viewed as having a self-evident interest in the outcome of proceedings, rather than as an independent, objective and disinterested third party. The letter from Ceja Enterprises has little probative value or evidentiary weight as it fails to indicate the date and place the purported application was filed.

The applicant asserts that Ceja Enterprises disposes all paper documents after five years. While this may be true, it is unclear why the applicant did not obtain a copy of the purported application after receiving the Notice of Decision issued on August 30, 2002, which denied her TPS application for late registration.

On appeal for denial of second TPS application, the applicant's former counsel indicated that the applicant was applying for late registration because she entered the United States as a non-immigrant visitor on June 30, 1998. Likewise, current counsel indicated in a letter dated September 27, 2006, that the applicant was eligible for late registration because "she was in non-immigrant status during the initial registration period, January 5, 1999 to August 20, 1999." Neither counsel makes any reference to the applicant having filed an application *during the initial registration period*.

The record reveals that on July 28, 1998, the applicant was issued a non-immigrant visa that expired on July 22, 1999.

While the applicant has met the threshold requirement for late registration under 8 C.F.R. § 244.2(f)(2)(i), as she was a non-immigrant during the first month of the initial registration period, this requirement alone does not render the applicant eligible for the benefit being sought. The applicant must meet all other requirements, namely evidence that she had filed an application within a 60-day period immediately following the expiration of her non-immigrant visa, which expired on July 22, 1999. The applicant, however, has not submitted any credible evidence to establish that she has met the criteria for late registration described in 8 C.F.R. § 244.2(g). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that the applicant was subject to removal from the United States pursuant to section 237(a)(1)(B) of the Act. On May 30, 2006, a Notice to Appear, Form 1-862, was issued. However, on November 16, 2006, the immigration judge administratively closed the applicant's case because of a finding that the applicant had a pending TPS application.!

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.

¹ Administrative closing of a case does not result in termination of the proceedings. It is merely an administrative convenience, which allows the removal of cases from the calendar in appropriate situations. See *Matter of Gutierrez-Lopez*, 21 I&N Dec. 479 (BIA 1996).