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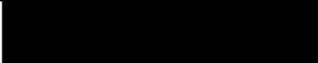


**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAR 25 2008**

[WAC 05 13981373]

INRE:

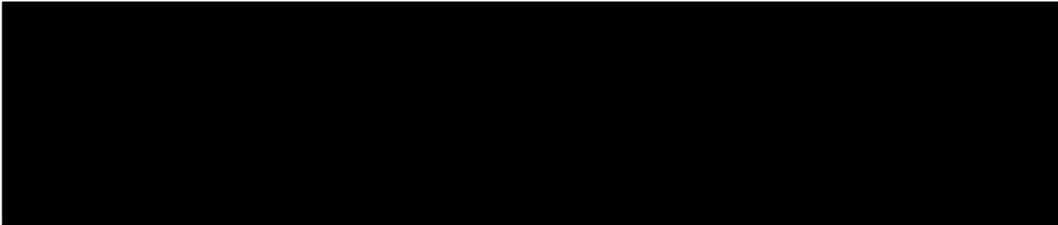
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the 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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a citizen of Honduras who seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the re-registration application because the applicant's initial TPS application had been denied and, as a result, the applicant was not eligible to re-register.

On appeal, the applicant submits a copy of his employment authorization document.

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.

The initial registration period for Hondurans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on 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 Citizenship and Immigration Services (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 record reflects that the applicant filed his initial TPS application on June 28, 1999 - during the initial registration period for Hondurans. In support of his application, the applicant submitted photocopies of the following documentation: his birth certificate, with translation; the birth certificate of his child, born on May 13, 1996; the applicant's fourth grade report card from elementary school in Atlantida, Honduras; an envelope addressed to the applicant from Gigante Express, postmarked February 8, 1999; and, an envelope from Federal Express, addressed to the applicant, dated February 26, 1999.

On October 18, 2001, the director informed the applicant that a criminal history check reflected that he had been arrested on September 14, 1994, by the New Brunswick Police and charged with one count of burglary, one count of theft, one count of possession of forgery devices, and, one count of possession of burglary tools. The director requested that the applicant provide a final court disposition for the September 14, 1994, arrest and proof that the applicant had cleared an outstanding warrant issued on October 28, 1996, by the New Brunswick Sheriffs office, for probation violation. The director informed the applicant that he had 12 weeks to submit the requested evidence. On April 8, 2002, the director noted that the applicant had not submitted the requested disposition.

On June 5, 2002, the director deemed the application abandoned due to the applicant's failure to provide the requested court disposition. The director informed the applicant that he could not file an appeal but that he could file a motion to reopen under limited motion rights. The applicant did not file a motion.

On May 27, 2003, the applicant submitted a final court disposition indicating that on October 26, 1994, he pleaded guilty to one count of burglary in the 3rd degree under NJ Penal Code 2c:18-2. The applicant was sentenced to 87 days served and placed on probation for three years. The applicant did not submit evidence that that he had cleared the outstanding warrant for probation violation.

On February 16, 2005, the applicant filed the current re-registration application. Although the applicant indicated that this was his first application for TPS, the director treated it as an application for re-registration. The director denied the application, finding that the applicant's initial application had been denied in 2002 and that he was, therefore, ineligible to apply for re-registration.

On appeal, the applicant submits a copy of an employment authorization document issued to him in 2001 based on his pending TPS application.

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. Accordingly, the director's decision to deny the application will be affirmed.

The applicant indicated on the current application that he was attempting to file a late initial application for TPS instead of an annual re-registration. There is no evidence in the file, however, to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

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.