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U.S. Citizenship
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[REDACTED]

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE: NOV 03 2008

[WAC 05 053 74545]

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

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

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 (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and 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 a TPS application on July 19, 2001, under receipt number SRC 01 254 55862. The Director, Texas Service Center, denied that application due to abandonment on May 11, 2002, because the applicant failed to respond to a request for additional evidence. The director informed the applicant that 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 applicant filed a motion to reopen the director's decision on June 6, 2002. On June 21, 2003, the director reopened the case and the applicant was provided another opportunity to submit the requested evidence. In response, the applicant provided evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the qualifying period. The director determined that the evidence furnished on motion failed to establish the applicant's eligibility for late registration and; therefore, affirmed her decision to deny the application on July 17, 2003. On August 14, 2003, the applicant filed an appeal from the director's decision. Pursuant to 8 C.F.R. § 103.5(a)(6), a field office decision made as a result of a motion may be appealed to the AAO only if the original decision was appealable to the AAO. The director's original decision on May 11, 2002, was not appealable to the AAO because the denial was based on abandonment. Therefore, the AAO rejected the applicant's appeal on August 16, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 17, 2004, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on July 23, 2005, 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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file 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 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.