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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 02 2006**
[WAC 05 095 76544]

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:

[REDACTED]

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 (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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on November 4, 2002, after the initial registration period for Hondurans had ended (SRC 157 55618 relates). On October 21, 2002, that application was denied because the applicant had failed to establish her eligibility for late registration. An appeal from that decision was dismissed by the AAO on June 12, 2003.

The applicant filed this Form I-821 on January 3, 2005, and indicated that she was re-registering for TPS or renewing temporary treatment benefits. The director of the CSC denied the 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 or renewal. The applicant filed her appeal of that decision on August 23, 2005.

If the applicant is filing an application for 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. If the applicant is applying to renew her temporary treatment benefits, she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS and she no longer has a pending application. Therefore, she is not eligible to re-register for TPS or to renew her temporary treatment benefits. 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 an application for late initial registration for TPS instead of an application for 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, through August 20, 1999. As previously discussed, the applicant filed the current application with Citizenship and Immigration Services (CIS) on January 3, 2005.

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

CIS record reveal that the applicant filed a Form I-589, Request for Asylum in the United States, on November 1, 1994. That application was denied on September 18, 1998, and an immigration judge ordered the applicant removed from the United States to Honduras. An appeal from that decision was dismissed by the Board of Immigration Appeals (BIA) on April 16, 1999.

While CIS regulations allow aliens with pending asylum requests to apply for TPS after the initial registration period, the regulations require that a late registration be filed within a 60-day period immediately following the denial of the application for asylum and the dismissal of any appeal. 8 C.F.R. § 244.2(g). In this case, the current application was filed on January 3, 2005, more five years and eight months after the dismissal of the appeal relating to her asylum request. Therefore, the application 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.