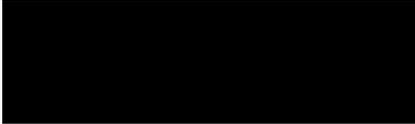


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**U.S. Citizenship
and Immigration
Services**

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FILE: 
[WAC 05 141 73193]

Office: CALIFORNIA SERVICE CENTER

Date: **JUL 25 2006**

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 office that originally decided your case. Any further inquiry must be made to that office.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, 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 TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the applicant's application for re-registration, under section 244 of the Act, because the applicant's initial TPS application had been denied.

In an appeal, dated August 24, 2005, counsel provides a brief statement. Counsel also states that additional evidence will be submitted within 90 days. To date, the Service has received no additional documentation. Consequently, the record must be considered complete.

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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 sole issue in this proceeding is whether the applicant is eligible to file for re-registration under section 244 of the Act.

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 in the United States since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until July 5, 2007, upon the applicant's re-registration during the requisite time period.

As stated in 8 C.F.R. § 244.1 "register" means "to properly file, with the director, a completed application with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

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 own statements. 8 C.F.R. § 244.9(b).

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reflects that the applicant filed his initial application with the Immigration and Naturalization Service now Citizenship and Immigration Services (CIS), on August 23, 1999. That application was denied on October 30, 2000, because the applicant failed to "submit required, requested, and conclusive evidence that you had not been convicted of one or more felonies or two or more misdemeanors." The applicant was given 30 days to file an appeal.

The applicant did not file an appeal.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on February 18, 2005.

Any Form I-821 application subsequently submitted by the same applicant after an initial TPS application is filed and a decision rendered must be considered as either a request for annual registration or as a new filing for TPS benefits. The applicant indicated on his Form I-821 application that he was re-registering for TPS.

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.

Since the initial TPS application was denied on August 23, 1999, the subsequent application cannot be considered as a re-registration. Consequently, the applicant is not eligible to file for re-registration under section 244 of the Act. Therefore, the director's decision to deny the application on this ground will be affirmed.

Beyond the decision of the director, the record contains no documentary evidence to establish that the applicant has been continuously residing in the United States since December 30, 1998, and continuously physically present in the United States since January 5, 1999. Therefore, the application must also be denied for these reasons.

It is noted that the record contains the Federal Bureau of Investigation (FBI) fingerprint results report indicating that the applicant was arrested and charged with the following:

ARREST - 1 05/10/1998 OBTS NO. - [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-BATTERY

ARREST - 2 10/10/1998 OBTS NO. [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-DIS COND

ARREST - 3 01/24/1999 OBTS NO. [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-TRESPASS MUNICIPAL
ORDINANCE

ARREST - 4 04/17/1999 OBTS NO. [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-BW TRESPASS MUNICIPAL
ORDINANCE

ARREST - 5 04/25/1999 OBTS NO. [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-PUBLIC PEACE -FALSE 911 CALL

ARREST - 6 08/14/1999 OBTS NO. [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-PUBLIC PEACE-AW FALSE 911 CALL

ARREST - 7 11/20/1999 OBTS NO. [REDACTED]

ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-PETIT LARCENY, THEFT MUNICIPAL
ORDINANCE

ARREST -8 11/08/2000 OBTS NO. [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COCAINE-POSSESS-
CHARGE 002-DISORDERLY INTOX-

ARREST -9 11/26/2000 OBTS NO. [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-DISORDERLY INTOXICATION
MUNICIPAL ORDINANCE

ARREST -10 02/26/2001 OBTS NO. [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-DISORDERLY CONDUCT
MUNICIPAL ORDINANCE

ARREST -11 03/24/2001 OBTS NO. [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COUNTY ORDINANCE VIOL-DISORDERLY INTOXICATION
COUNTY ORDINANCE

ARREST -12 03/31/2001 OBTS NO. [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-MUNICIPAL ORDINANCE VIOL-DISORDERLY INTOXICATION
MUNICIPAL ORDINANCE
CHARGE 002-MUNICIPAL ORDINANCE VIOL-RESISTING ARREST WITHOUT
VIOLENCE MUN ORD

ARREST -13 07/16/2001 OBTS NO. [REDACTED]
CHARGE 001-COUNTY ORDINANCE VIOL-DISORDERLY INTOXICATION
COUNTY ORDINANCE
CHARGE 002-COUNTY ORDINANCE VIOL-OBSTRUCTING FIRE, POLICE
OFFICER COUNTY ORDINA [SIC]

ARREST -14 07/11/2002 OBTS NO. [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COUNTY ORDINANCE VIOL- BW DISORDERLY INTOXICATION
COUNTY ORDINANCE
CHARGE 002-COUNTY ORDINANCE VIO BW DISORDERLY INTOXICATION
COUNTY ORDINANCE

ARREST -15 07/13/2002 OBTS NO.- [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COUNTY ORDINANCE VIOL-

ARREST -16 09/02/2002 OBTS NO.- [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COUNTY ORDINANCE VIOL-

ARREST -17 09/29/2002 OBTS NO.- [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COUNTY ORDINANCE VIOL-ALCOHOL CONSUME NEAR STORE
SELLING ALCOHOL CNT
CHARGE 002-COUNTY ORDINANCE VIOL-OBSTRUCT CIVIL CRIM PROCESS
COUNTY ORDINANCE

ARREST -18 11/15/2002 OBTS NO.- [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-DISORDERLY INTOX-
CHARGE 002-COUNTY ORDINANCE VIOL-

ARREST -19 03/28/2003 OBTS NO.- [REDACTED]
ARREST AGENCY-METRO-DADE POLICE DEPARTMENT
CHARGE 001-COUNTY ORDINANCE VIOL

ARREST -20 10/15/2004 OBTS NO.- [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-DAMAGE PROP-CRIM MISCH
CHARGE 002-DAMAGE PROP-CRIM MISCH
CHARGE 003-DAMAGE PROP-CRIM MISCH

ARREST -21 03/17/2005 OBTS NO.- [REDACTED]
ARREST AGENCY-HIALEAH POLICE DEPARTMENT
CHARGE 001-AGGRAV BATTERY
CHARGE 002-DISORDERLY INTOX
CHARGE 003-RESISTING OFFICER
CHARGE 004-POSSESS STOLEN PROP

CIS must address these arrests and/or convictions in any future decision or proceeding.

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.