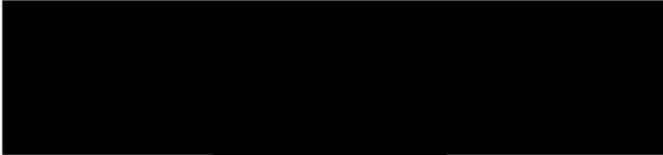




U.S. Citizenship  
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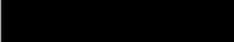
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Office: CALIFORNIA SERVICE CENTER

Date: **JUL 14 2006**

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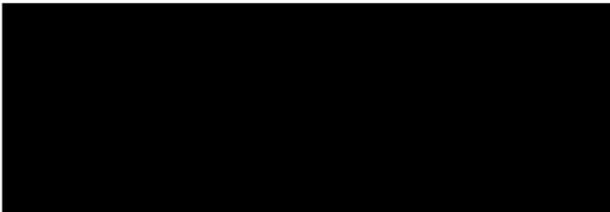
IN RE:

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.

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 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 her initial TPS application on August 6, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 256 56087. The Director, Texas Service Center denied that application due to abandonment on August 23, 2002, because the applicant failed to respond to a request for evidence that would establish her eligibility to file for late initial registration. The applicant filed another TPS application on July 1, 2003, under CIS receipt number SRC 03 193 53332. The Texas Service Center Director denied that application on November 18, 2003, because the applicant failed to establish her eligibility to file for late initial registration. There is nothing in the record to indicate that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 16, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, counsel for the applicant states that it was improper to deny the applicant's re-registration of her TPS application. According to counsel, the applicant was previously approved for TPS. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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, she is not eligible to re-register for TPS. 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 a late initial application for TPS instead of an 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 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on February 16, 2005.

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).

On appeal, counsel for the applicant states that it was improper to deny the applicant's re-registration for TPS. According to counsel, the applicant was approved for TPS in 2001, is a citizen of Honduras, has continuously resided in the United States since December 30, 1998, and has been continuously physically present in the United States since January 5, 1999. Counsel also states that the applicant is the wife of a Honduran citizen who is TPS-eligible.

Contrary to counsel's contention, the applicant was conditionally granted temporary treatment benefits under the TPS program, until such time as a final decision was reached on her application. It is also noted that the evidence submitted on appeal indicating continuous physical presence in the United States during the qualifying period is in the applicant's husband's name. It is therefore of little or no probative value. The applicant has provided a copy of her marriage certificate, which indicates that she was married on May 29, 2003. However, while CIS regulations may allow spouses of TPS beneficiaries to file their applications after the initial registration period had closed these regulations do not relax the requirements for eligibility for TPS. The applicant was

married subsequent to the initial registration dates. Therefore, the applicant is not eligible for late initial registration as the spouse of a TPS-eligible alien. The applicant also submits evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence since December 30, 1998, and continuous physical presence from January 5, 1999, to the filing date of the TPS application. It is also noted that the applicant provided a photocopy of her Honduran identification card and the first page of her passport in an attempt to establish her nationality and her identification. However, the identification card was issued in Honduras on March 8, 1999, and the passport was signed by the applicant and appears to have been issued in Honduras on April 19, 2005. This is further evidence that the applicant has not met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c), thereby precluding a finding that the applicant was in the United States during the operable timeframe. Therefore, the application must be denied for these reasons as well.

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.