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20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: MAY 3 1 2006
[WAC 05 055 71347]
[SRC 03 169 54342]

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). An appeal from that decision was dismissed by the AAO, and an appeal from the AAO's decision was dismissed by the TSC. A subsequent application for re-registration or renewal of temporary treatment benefits was denied by the Director, California Service Center (CSC). The decision of the TSC to dismiss the motion to reopen will be reopened, *sua sponte*, by the AAO, and the decision of the director will be affirmed. The current appeal from the decision of the CSC 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 June 2, 2003, after the initial registration period had ended (SRC 03 169 54342 relates). On September 16, 2003, that application was denied because the applicant failed to establish his eligibility for late registration. An appeal from the director's denial decision was dismissed by the AAO on July 30, 2004. An appeal from the AAO's decision was timely filed on August 24, 2004. In error, the director of the TSC considered the appeal as a motion to reopen, and dismissed it as late on September 19, 2004, in lieu of forwarding it to the AAO for consideration. Therefore, that decision will be reopened, *sua sponte*. A review of the record reflects that the applicant failed to submit any evidence on appeal to overcome either the director's decision to deny the application or the AAO's dismissal of the appeal. Accordingly, the appeal will be dismissed and the decision of the director to deny the application will be affirmed.

The applicant filed this Form I-821 on November 24, 2004, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits. The director of the CSC denied the application on July 1, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal. The applicant filed the current appeal of that decision on July 18, 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 his temporary treatment benefits, he must have a pending TPS application.

In this case, the applicant has not previously been granted TPS and he no longer has a pending application. Therefore, he is not eligible to re-register for TPS or to renew his 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 November 24, 2004.

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).

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 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.