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**MAY 08 2006**  
Date:

FILE:

Office: CALIFORNIA SERVICE CENTER

[WAC 05 104 77398]

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:

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 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 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 on May 21, 2002, the applicant filed an earlier TPS application under Citizenship and Immigration (CIS) receipt number SRC 02 181 54398. The Texas Service Center Director denied that application on July 16, 2002, because the applicant failed to establish his eligibility for late initial registration. The applicant did not file an appeal from the denial decision.

On October 25, 2004, the applicant filed another TPS application under Citizenship and Immigration (CIS) receipt number SRC 05 017 54311. The Texas Service Center Director denied that application due to abandonment on January 31, 2005, because the applicant failed to submit the required payment for the fingerprinting fee. The applicant did not file a motion to reopen the denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 12, 2005, and indicated this was an application for re-registration or extension of TPS benefits.

The director denied this 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, the applicant states that he believes his TPS application has been denied in error because the receipt notice for his employment authorization application indicates that it was denied because the applicant did not have a pending asylum application. In support of the appeal, the applicant submits additional evidence consisting of photocopies of: his State of North Carolina Driver License issued on August 27, 2004; his Honduran passport issued on April 8, 2005; a CIS receipt notice for his January 14, 2005, application for employment authorization; CIS receipt notices for his May 21, 2002, applications for TPS and employment authorization; a fingerprint notification dated February 9, 2005; a fingerprint fee receipt dated May 23, 2002; and, additional copies of his TPS applications.

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.

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 January 12, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g).

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). As noted above, the applicant's previous TPS application also was filed outside of the initial registration period and was denied for that reason. Because the applicant has not established his eligibility for late initial registration, this application also must be denied for this reason.

It is noted that the CIS Form I-797, receipt notice, for WAC 05 104 77399, application for employment authorization, improperly refers to his employment application as a request for authorization under the asylum program, and denies his application because the applicant does not have a pending asylum application. The Forms I-765, Application for Employment Authorization, submitted by the applicant, however, indicate that he has requested employment authorization under Category C19, in relation to his TPS applications. Although the receipt notice erred in stating that the applicant had applied under the provisions relating to asylum, the applicant is not eligible for employment authorization under the TPS program because his TPS application has been denied and his appeal has been dismissed.

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.