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

M-1

FILE:

[WAC 05 153 73516]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: NOV 27 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, counsel for the applicant submits a statement and copies of evidence previously submitted in support of the application.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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.

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 since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on March 2, 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.

The burden of proof is upon the applicant to establish that he 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On February 16, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided the following:

1. a letter from the applicant dated December 7, 2004, stating that he tried to apply for TPS "last year" but the application was rejected and returned to him because the fingerprint card had not been signed, and when he re-submitted the application with a signed fingerprint card, the application was again rejected and returned to him because the initial registration period for Hondurans had passed;
2. a photocopy of a United States Postal Service (USPS) Form 3811, Domestic Return Receipt, indicating mail was received at the California Service Center on August 31, 1999 and a photocopy of a USPS Form 3811 indicating receipt of mail at the California Service Center on May 15, 2000;
3. a photocopy of a notice September 20, 1999, from the California Service Center to Comete-Pro-Uno in Maywood, California, indicating that a TPS application was rejected and returned

because it was not filed until September 20, 1999 and no evidence of eligibility for late initial registration had been provided;

4. a photocopy of a notice dated August 9, 2000, from the California Service Center to the applicant rejecting his TPS application because the application was received after the expiration of the initial registration period for Hondurans and the applicant had not provided evidence of eligibility for late initial registration;
5. a photocopy of an undated notice, with no name, address, or any other information to identify the addressee, stating that the deadline for filing TPS applications ended on August 20, 1999, and evidence was required to establish eligibility for late initial registration;
6. a photocopy of a CIS notice dated August 20, 1999, with no name, address, or other information to identify the intended recipient of the notice, instructing the intended recipient to sign the fingerprint card and return it to the California Service Center; and
7. a photocopy of a letter dated June 27, 2000, from [REDACTED] Head of Public Relations, Honduran Consulate in Los Angeles, California, to the California Service Center stating that the applicant's initial TPS application had been rejected and returned to the applicant because he had not signed the Form I-765 signature card, but when he resubmitted the application with a signed Form I-765 signature card, the application was rejected and returned to him. [REDACTED] requested that the California Service Center help the applicant as other Honduran citizens in the same situation had been helped.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 16, 2006.

On appeal, counsel asserts that the applicant submitted a timely TPS application "before August 20, 1999," but his application was rejected and returned to him because the fingerprint card was not signed. Counsel states that the applicant resubmitted the application with a signed fingerprint card, and the resubmitted application was received at the California Service Center on August 31, 1999, but was again rejected and returned to him because the initial registration period for Hondurans had expired and he had not submitted proof of eligibility for late initial registration. Finally, counsel states that the applicant has "attempted to resubmit his application at least 3 times and every time it has been improperly rejected." Counsel submits copies of Nos. 1 through 5 above, along with a photocopy of a signed fingerprint card.

The evidence submitted in support of counsel's assertions is not probative. The applicant did not submit a photocopy of a Form I-821 purportedly signed in 1999, and the domestic return receipts showing receipt of mail at the California Service Center on August 31, 1999 and May 15, 2000 (No. 2 above) do not include a photocopy of the reverse side of the card showing the applicant as the sender of mail to the California Service Center on those dates.

The CIS notice dated August 20, 1999, rejecting a Form I-821 for a signature on the fingerprint card (No. 6 above) does not have the applicant's name, address, or any other information to identify the applicant as the intended recipient of the notice. It is noted that a Form I-765 signature card bearing the applicant's signature appears to have been stapled to the original notice, but the signature card could have been attached to the notice at any time.

The CIS notice dated September 20, 1999, rejecting a TPS application because it was not mailed with proof of eligibility for late initial registration (No. 3 above) is not addressed to the applicant, but rather to "Comete-Pro-Uno." The applicant has not provided any evidence that he retained the services of that organization to assist him in preparing or filing a TPS application in 1999. Another notice rejecting a Form I-821 for the same reason is undated and has no name or address of the intended recipient (No. 5 above).

The notice dated August 9, 2000 (No. 4 above) is addressed to the applicant. This notice rejected the applicant's Form I-821 because it was not submitted until June 28, 2000, and the applicant has failed to submit proof of eligibility for late initial registration. Again, this notice does not establish that the applicant properly filed a complete TPS application during the initial registration period.

The evidence of record is not sufficient to establish the applicant's claim that he submitted a TPS application during the initial registration period that was improperly rejected and returned to him. Therefore, counsel's assertion cannot be accepted. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that the applicant's fingerprint results report revealed that the applicant was previously expeditiously removed to Honduras on February 16, 1990.

Beyond the decision of the director, the applicant has also failed to submit sufficient evidence to establish his identity and nationality. Therefore, the application also must 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 TPS 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.