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U.S. Citizenship
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Services

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FILE:



[WAC 05 152 80608]

Office: CALIFORNIA SERVICE CENTER

Date: **OCT 03 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 California Service Center. Any further inquiry must be made to that office.

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

A small handwritten mark or initials in black ink.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application for Temporary Protected Status was denied by the Director, Texas Service Center. The current 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 stated to be 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 TPS application on March 13, 2002, under receipt number SRC 02 115 54389. On March 26, 2002, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2) and her nationality. On April 22, 2002, the applicant responded by providing affidavits from [REDACTED] and [REDACTED]. On September 24, 2002, the Texas Service Center director determined that the applicant failed to submit a national identity document and failed to establish eligibility for late registration. The record does not reflect that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 1, 2005, and indicated that she was re-registering for TPS.

On September 28, 2005, the California Service Center 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, the applicant, through counsel, states that since the applicant is married to a TPS registrant, she is eligible for late registration.

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 through August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on March 1, 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).

In an attempt to establish that she qualifies for late registration, the applicant provided a copy of a Declaration and Registration of Informal Marriage, dated August 1, 2003. The applicant states that she is "married" to [REDACTED] a TPS registrant, and therefore, she is eligible for late registration. However, in [REDACTED] TPS applications, filed April 20, 1999, June 8, 2001, and June 19, 2003, he listed himself as "single," not married. Therefore, the applicant cannot demonstrate that she was married to a TPS registrant during 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.

It is noted that in the affidavit provided by [REDACTED] dated June 5, 2000, he states that he has known the applicant since November 1998 and that "we have been very good friends, because she is a very nice person." He makes no claim that the applicant is his wife, even though the Declaration and Registration of Informal Marriage states that the applicant and [REDACTED] have been "married" and living together as "husband and wife" since November 15, 1998. Moreover, in the applicant's initial application, filed on March 13, 2002, and her re-

registration application, signed on May 23, 2002, the applicant listed herself as "single," under the name [REDACTED] [REDACTED] with no other names used, and with an address in North Carolina. [REDACTED] listed a Texas address in his affidavit.

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.