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**U.S. Citizenship
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Services**

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FILE:



Office: California Service Center

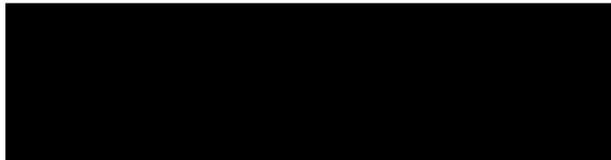
Date:

OCT 31 2006

[WAC 05 155 74434]

IN RE:

Applicant:



PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

ON BEHALF OF PETITIONER:

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.

A handwritten signature in black ink, appearing to read "R. 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 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 late initial TPS application on March 2, 2005, under CIS receipt number WAC 05 155 74434. The director denied the application on May 03, 2006, because the applicant failed to establish that he was eligible for late initial registration. It is noted that in the Notice of Intent to Deny, dated March 1, 2006, the director specifically requested that the applicant provide evidence that the applicant met the requirements for late initial registration. However, the applicant failed to submit documents to establish eligibility for late initial registration for TPS.

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 continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Hondurans was from January 05, 1999, through August 20, 1999. The record reveals that the applicant filed his initial 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 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, the applicant states that he entered the United States in 1997, that he has been in the United States ever since, and seeks an opportunity to be legal. With his appeal, as with his application and with his response to the notice of intent to deny, the applicant submitted numerous documents, consisting of a photocopy of the biographic page of his passport; an invoice dated October 11, 2005; a Western Union money transfer receipt, dated June 2, 2006; 3 invoices issued by American Auto Paint Supply, issued in 2005; a copy of an undated IRS E-file label; a copy of a US Treasury check issued in December 2004; and numerous invoices and generic receipts, in an attempt to establish his continuous residence and his physical presence in the United States since 1998. However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. 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 Federal Bureau of Investigation (FBI) results report reflects that the applicant was arrested by the Hialeah Police Department, Hialeah, Florida, on July 4, 2005, and charged with driving Under the Influence, and Non-moving Traffic Violation – No Valid Drivers License. The record indicates a conviction on July 26, 2005 for D.U.I, on a nolo-contendere guilty plea, a sentence of 6 months probation, 50 hours of community service, six months driver's license suspension, and a fine of \$781.75. The record also indicates a dismissal Non-moving Traffic Violation – No Valid Drivers License charge. The AAO notes that

the final court dispositions are in the record of proceeding. CIS must address this conviction in any future proceedings.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his continuous residence and continuous physical presence for TPS. Therefore, the application will also be denied for these reasons.

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.