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U.S. Citizenship  
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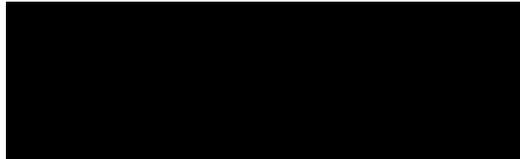
Office: CALIFORNIA SERVICE CENTER

Date: **SEP 01 2006**

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IN RE:

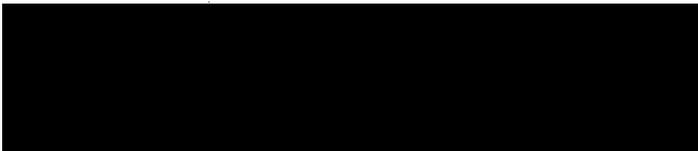
Applicant:



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 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 his initial TPS application on January 29, 1999, under CIS receipt number SRC 99 121 54184. The Director, Texas Service Center (TSC), denied that application on September 25, 2003, due to abandonment because the applicant failed respond to a request for evidence in order to establish his eligibility for TPS.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on December 15, 2004, indicating that this was his initial TPS application.

The director denied the instant application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

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.

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.

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 instant application with Citizenship and Immigration Services (CIS) on December 15, 2004.

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).

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.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for these reasons.

Although not addressed by the director, the record of proceedings contains the Federal Bureau of Investigation report reflecting the following offenses in Florida:

- (1) On May 18, 2002, the applicant was arrested by the Metro-Dade Police Department and charged with "Cocaine Possession". ;
- (2) On June 22, 2003, the applicant was arrested by the Metro-Dade Police Department and charged with "Traffic Offense – DUI";
- (3) On August 24, 2005, the applicant was arrested by the Miami Police Department and charged with "Traffic Offense-Drivers License Failed to Surrender";
- (4) On October 9, 2005, the applicant was arrested by the Wildwood Police Department and charged with "Loitering or Prowling", "Burgl Tools-Possess with Intent to Use";
- (5) On November 17, 2005, the applicant was arrested by the Metro-Dade Police Department and charged with two counts of "Grand Theft 1<sup>st</sup> Degree"; and,
- (6) On January 16, 2006, the applicant was arrested by the Miami Police Department and charged with "Aggrav Battery".

The record also contains certified Clerk's Certificates from the Metro-Dade County Traffic Division reflecting that the applicant pled guilty on October 4, 1999, to Florida Statute 322.03(1) - Driving a Motor Vehicle without a Valid Driver's License. CIS must address these arrests and/or convictions in any future decisions or proceedings.

It is also noted that the applicant was ordered removed from the United States by an immigration judge in Harlingen, Texas on June 8, 1998.

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.