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FILE:

[WAC 05 084 71420]

Office: CALIFORNIA SERVICE CENTER

Date: SEP 29 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:

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.

Cindy M. Gomez

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 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 an initial TPS application on August 2, 2001, subsequent to the initial registration period under Immigration and Naturalization Services now Citizenship and Immigration Services (CIS) receipt number WAC 01 262 61028. The director denied that application on October 23, 2003, because the applicant failed to establish his eligibility for late registration.

On November 18, 2003, the applicant filed an appeal from that decision to the AAO. The AAO dismissed that appeal because the applicant failed to establish his eligibility for late registration.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 23, 2004, and indicated that he was re-registering for TPS.

The 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.

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.

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).

It is noted that the record of proceedings contains information pertaining to the applicant's apprehension in Kapaa, Kauai, Hawaii on or about December 7, 2004. Based upon the Federal Bureau of Investigation (FBI) fingerprint results report, it is also noted that the applicant was apprehended on April 29, 1996, in McAllen, Texas, under A74 586 115, and was ordered deported on February 21, 1997. At that time, he indicated that he was born in Guatemala. It is further noted that there is no photo identification evidence contained in the record of proceeding to establish that the applicant is a national or citizen of Honduras.

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.