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FILE: [REDACTED] Office: California Service Center Date: APR 30 2007
[WAC 05 140 71653]

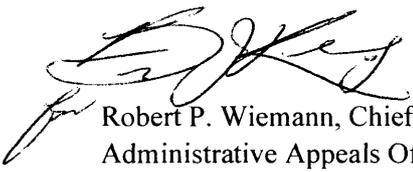
IN RE: Applicant: [REDACTED]

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 California Service Center. Any further inquiry must be made to that office.


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 (AAO) 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 February 17, 2005, under CIS receipt number WAC 05 140 7165. The director denied the application on July 20, 2006, because the applicant failed to establish that he was eligible for late initial registration for TPS. The director noted that the applicant failed to respond to a March 22, 2006, notice of intent to deny to submit evidence to establish eligibility for TPS. The director also noted that the notice of intent to deny was mailed to the applicant's last known address.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2007, upon the applicant's re-registration during the requisite period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or 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).

With his TPS application, the applicant submitted:-

- His Honduras identification card, issued in July 2002;
- A Honduras birth certificate (in Spanish), and an English translation;
- A reference letter from [REDACTED] (in Spanish with an English translation) stating that she has known the applicant in this country from 1997 through 2004;
- An a letter from [REDACTED], dated February 19, 1998, referring to selection of a primary care physician; and,
- Various invoices and receipts.

On appeal, the applicant asserts eligibility for TPS, and states that he has been living in the United States since 1995-1996, and he would like the opportunity to live and work freely in this country. The applicant further states that he did not receive the correspondence from CIS as it was mailed to his former address after he notified CIS, on three occasions, of his new address. The applicant does not submit any additional evidence on appeal. It is noted, however, that the notices were not returned as undeliverable.

The evidence of record 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 temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his continuous residence in the United States from December 28, 1998 and his continuous physical presence since January 5, 1999. Therefore, the application will also be denied for these reasons.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested on April 27, 2005, by the Miami Police Department, Miami, Florida, and charged with:-

- Charge 1: Moving Traffic Viol – No Valid Drivers;
- Charge 2: Pass Forged – Uttering Forged Instruments, in violation of Statute/Ordinance – FL831.02, a Felony.

The AAO notes that the final court dispositions are not in the record of proceeding. CIS must address this arrest in any future proceedings.

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.