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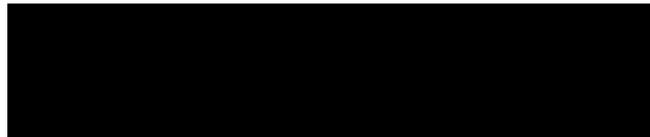
OFFICE: California Service Center

DATE:

[WAC 05 104 76990]

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.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). 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 an initial Form I-821, Application for Temporary Protected Status [WAC 99 232 50603], in August 1999. The application was denied by the director on July 26, 2001 for lack of prosecution, in accordance with 8 U.S.C. § 103.2(b)(12). The director cited the applicant's failure to appear for a scheduled interview, which the record indicates – in the form of a Form G-56 addressed to the applicant and dated July 29, 2000 – had been set for October 3, 2000 at an Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), office in Los Angeles, California. Upon review of the record, the Chief, AAO, concurs with the director's denial decision.

The AAO notes that the initial Form I-821 was filed on August 26, 1999. That was six days after the expiration of the registration period for TPS applicants from Honduras, which ran from January 5, 1999 to August 20, 1999. There is no evidence in the record to suggest that the applicant was eligible for late registration for TPS, in accordance with 8 C.F.R. § 244.2(f)(2), upon the expiration of the initial registration period in August 1999. It would appear, therefore, that the initial application was also deniable on the ground of late filing.

The applicant filed the current Form I-821 on January 5, 2005, indicating that she was filing it as an initial TPS application. The director denied the current application on March 23, 2006, on the ground that the applicant's initial TPS application had been denied, which made the applicant ineligible to re-register for TPS under section 244 of the Act.

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. *See* 8 C.F.R. § 244.17.

On appeal the applicant asserts that she never received the interview notice in 2000, probably because no change of address form was filed with CIS. A review of the record confirms that the applicant never advised CIS of any address change(s), and also confirms that the California Service Center correctly sent all correspondence to the applicant's last known address, as evidenced by the applicant's most recent communications to CIS.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS. Accordingly, the director's decision to deny the current application will be affirmed.

As previously discussed, the applicant indicated on the current Form I-821 that she was filing an initial application for TPS, not an application for re-registration.

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 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.

As previously discussed, the initial registration period for Hondurans was from January 5 to August 20, 1999. The applicant filed the current application on January 5, 2005, more than five years and four months after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied 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. *See* 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. *See* 8 C.F.R. § 244.9(b).

The applicant has not provided any evidence to establish that her current application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application must be denied for this reason as well.

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, or 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.