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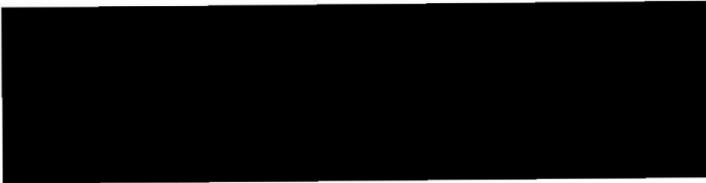
Office: CALIFORNIA SERVICE CENTER

Date: JAN 19

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:



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*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC), 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 his initial Form I-821, Application for Temporary Protected Status (TPS), on June 17, 2002, under receipt number SRC 02 203 54262. The Director, Texas Service Center (TSC), denied that application as abandoned on August 28, 2002, because the applicant failed to respond to a request for evidence to establish that he was eligible for filing his TPS application after the initial registration period from January 5, 1999 to August 20, 1999. On March 18, 2004, the applicant filed a motion to reopen the denial decision. There appears to have been no response to this request. A second motion request was filed on December 21, 2004. The TSC director dismissed that motion on February 14, 2005.

The applicant filed another Form I-821 on January 5, 2005, 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.

On appeal, the applicant states that he has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 is not a current TPS registrant. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

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 instead of an annual re-registration.

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 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on January 5, 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 1998 and has provided all of the requested evidence. The applicant also submits additional evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period.

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 director's decision, it is noted that a Federal Bureau of Investigation (FBI) fingerprint results report indicates that the applicant was arrested on:

- September 9, 2000, by the Coral Gables, Florida, Police Department, for "Driving Under the Influence."
- January 26, 2001, by the Metro-Dade, Florida, Police Department, for "Driving While License Suspended With Knowledge;" and
- May 2, 2004, by the Miami, Florida, Police Department, for "Driving Under the Influence."

The final court dispositions for these arrests are not included in the record. It is also noted that the applicant has failed to declare on his applications that he has ever been arrested. CIS must address these arrests in any future proceedings.

In addition, although the applicant claims entry into the United States in 1998, Service records indicate that he entered the United States as a B-2 visitor for pleasure and departed the United States on February 23, 1999. He again re-entered the United States as a B-2 non-immigrant, on May 1, 2000, after the requisite dates required to establish eligibility for TPS. This precludes a favorable finding as to the applicant's establishing his qualifying continuous residence and continuous physical presence during the requisite timeframes. Therefore, the application must also be denied for these reasons.

Since the applicant has indicated that he has not departed the United States since his entry in 1998, he also has raised doubts as to the credibility or reliability of his assertions and evidence presented. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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.