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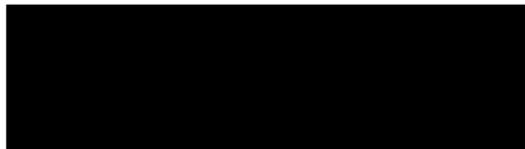
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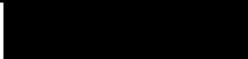
U.S. Citizenship  
and Immigration  
Services

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FILE:



[WAC 05 111 70685]

Office: CALIFORNIA SERVICE CENTER

JUL 24 2007

Date:

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 California Service Center. 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**DISCUSSION:** The approval of the application was withdrawn by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who filed an initial application for TPS under receipt number SRC 03 200 55654 after the initial registration period had closed. The Director, Texas Service Center, denied that application on December 24, 2003, after determining that the applicant had failed to establish he was eligible for late initial registration. The record reflects that the applicant's TPS was subsequently granted on May 25, 2005. However, the Director, CSC, withdrew the applicant's status on October 11, 2005, because he had been convicted of two or more misdemeanors or a felony.

On appeal, the applicant requests that his case be re-opened to give him the opportunity to be legal in this country. He states that he has answered all the requests that he has received from Citizenship and Immigration Services (CIS) and that since he came to the United States in 1998, he has never been in any kind of trouble nor has he ever been stopped by any official of CIS. The applicant further states that he wants to live in this country, be employed and to help his family. The applicant provides additional documentation to support a claim for continuous residence and continuous physical presence.

The applicant's appeal consists of documentation relating to his claim of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. However, the primary basis for the withdrawal of the applicant's TPS was the applicant's criminal activity and not a failure to establish qualifying residence and physical presence. Beyond the applicant's assertion that he has never been in any kind of trouble, the appeal does not address the applicant's criminal background. As such, the issue on which the underlying decision was based has not been overcome on appeal.

The applicant's Federal Bureau of Investigation fingerprint results report shows that on May 8, 2005, in Florida, he was arrested by the Polk County Sheriff's Office for "DUI ALCOHOL OR DRUGS 1<sup>ST</sup> OFF." The final court disposition of this arrest or any other arrests is not included in the record of proceeding.

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed his application with Citizenship and Immigration Services on July 7, 2003.

To qualify for late registration, an 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.

On September 20, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country. However, with the documentation he provided on October 20, 2003 and to date, he has not submitted any evidence to establish that he is eligible for late initial registration. Therefore, the appeal shall be dismissed 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 has the burden of proving that he or

she meets the requirements cited 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.