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U.S. Citizenship
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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 01 2007
[WAC 05 096 78802]

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 office that originally decided your case. 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 application was denied by the Director, California Service Center (CSC). A subsequent appeal was rejected by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be granted and the appeal will be dismissed.

The applicant claims to be a native and 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 applicant filed the current Form I-821, Application for Temporary Protected Status, on January 4, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on June 1, 2005, because the applicant had not previously been granted TPS. Neither did he provide any evidence that would qualify him for late initial filing of his TPS application. The applicant filed an appeal on July 11, 2005.

The AAO rejected the appeal on February 28, 2006, because it was filed untimely. On motion, the applicant requests that his appeal be reopened to allow him to stay in the United States and become a productive member of society. He further claims that he has been physically here in the United States since 1998 and submits the documents to support this claim, including copies of automobile registration, utility bills; hand-written rent receipts, money transfer receipts, automobile insurance, vaccination card, grocery store and drug store receipts.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The AAO decision to reject the appeal as untimely is hereby vacated and a full decision on the appeal follows.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

An alien applying for 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 motion to reopen is granted and the appeal is dismissed.