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U.S. Citizenship  
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FILE:

[REDACTED]

OFFICE: CALIFORNIA SERVICE CENTER DATE: **OCT 17 2007**

[WAC 05 053 71636]

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:

[REDACTED]

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.

for 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 on appeal. The appeal will be dismissed.

The applicant is 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 record reveals that the applicant filed a TPS application during the initial registration period on July 6, 1999, under receipt number WAC 99 196 51965. The director denied that application on November 2, 2000, because the applicant had failed to submit the complete court dispositions of his arrests [on September 26, 1988, in Los Angeles, California, for (1) rape by force/fear, and (2) sexual battery]. On December 12, 2000, the applicant filed an appeal from the denial decision. That appeal will be addressed in a separate decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 22, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application on July 23, 2005, 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 asserts that he has "applied for and have received TPS since the year 2000," and he has established continuous physical presence in the United States for the required specified period of time. He further asserts that he believes his TPS application has been denied in error and at no fault of his own. He submits copies of Form I-797C, Notice of Action, as evidence that he filed applications for TPS (Form I-821) and applications for employment authorization (Form I-765), and copies of Employment Authorization Cards (EAD) issued to the applicant.

The applicant's assertion that he has been granted TPS is without merit. The fact that the applicant was issued EADs is not evidence that he was approved TPS. Based upon filing of the Form I-821 application for TPS, the applicant was afforded temporary treatment benefits and was issued Employment Authorization upon establishing *prima facie* eligibility<sup>1</sup> for TPS pursuant to 8 C.F.R. § 244.5(b). As provided in 8 C.F.R. § 244.13(a), temporary treatment benefits terminate upon a final determination with respect to the alien's eligibility for TPS.

The applicant is filing the current TPS application as a re-registration; therefore, 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.

It is noted that the applicant has not overcome the director's denial of the initial TPS application, as the record is still devoid of the complete final court disposition of the applicant's September 26, 1998 arrest.

It is noted that File [REDACTED] contains a warrant of deportation that was issued in Los Angeles, California, on February 12, 1997, and that the applicant was deported from the United States on February 19, 1997.

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<sup>1</sup> Pursuant to 8 C.F.R. § 244.1, *prima facie* means eligibility established with the filing of a completed application for TPS containing factual information that if un rebutted will establish a claim of eligibility under section 244 of the Act.

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.