



U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 04 2008**
[WAC 05 098 74778, as it pertains to
SRC 99 229 51919]

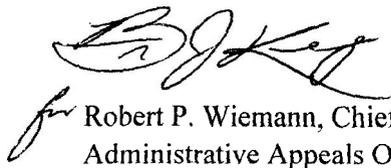
IN RE: Applicant: [REDACTED]

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 California Service Center. Any further inquiry must be made to that office.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center. A subsequent application for re-registration 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 applying for 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 TPS application on July 14, 1999, under receipt number SRC 99 229 51919. The director denied that application, on May 20, 2000, because the applicant failed to respond to the director's Request for Additional Evidence (RFE). The director specifically requested the applicant to submit evidence of his entry into the United States prior to December 30, 1998, and his continuous residence in the United States since that entry. The director, therefore, considered that application abandoned. See 8 C.F.R. § 03.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 6, 2005, under CIS receipt number WAC 05 098 74778, and indicated that he was re-registering for TPS. The director denied that application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

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.

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, through August 20, 1999. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on January 6, 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).

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.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report, completed in connection with his subsequent TPS re-registration application, reflects that the applicant was arrested for the following offenses in the state of Florida:

1. February 7, 1999, and October 12, 1999, by the Miami-Dade County Police for Trespass;
2. October 26, 1999, by the Miami-Dade Police, for knowingly driving while license was suspended;
3. October 22, 2002, by the Miami-Dade Police, for knowingly driving while license was suspended;
4. May 20, 2003, by the Surfside Police Department, for knowingly driving while license was suspended.
5. October 30, 2005, by the Miami-Dade County Police, for Trespass on property after warning and disorderly intoxication;
6. December 30, 2005, by the North Miami Police Department, for driving with a suspended license; and,
7. June 23, 2007, by the Florida Highway Patrol-Ft. Lauderdale, for driving while license suspended.

In addition, the record reflects that the applicant was arrested on June 20, 2003 in the State of Georgia by the Carrollton Police Department for driving under the influence of alcohol.

The record does not contain the final court dispositions for these arrests. CIS must address these arrests and any convictions in any future proceedings.

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.