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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE:



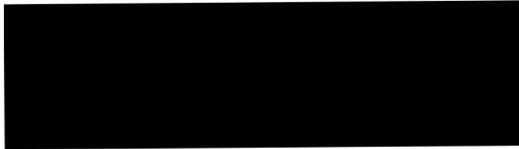
Office: CALIFORNIA SERVICE CENTER

Date: JAN 03 2008

[WAC 05 074 71586 as it relates to SRC 9925653454]

INRE:

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

INSIRUCTIONS:

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 initial application was denied by the District Director, Atlanta, Georgia. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. 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 an **initial** application for TPS under Citizenship and Immigration Services receipt # [REDACTED] which was denied by the District Director, Atlanta, Georgia, on January 5, 2002, because **the** applicant had abandoned his **application** by **failing** to provide all of the additional evidence that had been requested on August 8, 2001. The Director, AAO, rejected an appeal by the applicant on March 12, 2003, and informed him that **if** he had additional evidence for the **record**, such documentation should be forwarded on a motion to reopen to the office which rendered the initial decision as there is **no appeal** for an abandonment denial. The file contains ilo indication that the applicant filed a motion to reopen with the district director.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on December 13, 2004, 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.

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.

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).

The record contains a Form 1-263B, Record of Sworn Statement, dated April 28, 1982, in which the applicant informed a Border Patrol Agent of the former Immigration and Naturalization Service (INS), that he was a citizen of Mexico and that his parents were both citizens and natives of Mexico. The record also contains a Form 1-213, Record of Deportable **Alien**, in which the applicant related his biographical data to another Border Patrol Agent of the INS on April 1, 1941. At that time, he claimed that he was a citizen of Honduras and that he was born in that country. He also stated that his parents were both Honduran nationals. Additionally, the record shows that the applicant was deported to Mexico on June 15, 1982, based **upon** his claim to being **a** Mexican citizen. However, the record now contains a copy of a Honduran passport **identity** page showing the applicant was born on February 11, 1963 in that country.

The applicant claimed and/or established his nationality as being Mexican at his April 28, 1982 interview when he elected to present himself as a citizen and national of Mexico to the United States Government. 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 lies; will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has **failed** to explain this discrepancy and, therefore, hasn't established qualifying nationality or citizenship. Consequently, the application is denied for this additional reason.

In removal proceedings held on May 7, 1991, an Immigration Judge presiding at the Port Isabel Service Processing Center in Texas, ordered the applicant deported to Honduras and granted the applicant voluntary departure from the United States on or before June 10, 1991, with an alternate order of deportation if he failed to depart as ordered. There is no evidence in the record that the applicant departed from the United States as required. It is further noted that the record contains an outstanding Form I-205, Warrant of Deportation, issued by the District Director of the Harlingen, Texas, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on November 13, 1991.

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,

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