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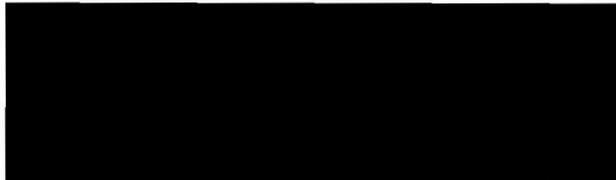
OFFICE: CALIFORNIA SERVICE CENTER

DATE: OCT 03 2008

[WAC 05 082 76317]

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied 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 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 on June 12, 2000, under receipt number LIN 00 235 50121. The Director, Nebraska Service Center (NSC), denied that application on December 14, 2000, after he determined that the applicant had failed to establish her eligibility for late registration. A subsequent appeal was dismissed by the AAO on January 30, 2002. The record does not reflect that the applicant filed a motion to reopen.

On July 23, 2001, the applicant filed a second TPS application under receipt number LIN 01 232 51668. On January 28, 2002, the applicant was requested to submit evidence establishing her eligibility for late registration, her date of entry into the United States, and evidence establishing her continuous residence and continuous physical presence in the United States during the qualifying periods. On August 30, 2001, a second request for evidence was sent to the applicant as the documents submitted in response to the first request were not sufficient to warrant favorable consideration of the applicant's TPS application. On June 3, 2002, the NSC director denied that application due to abandonment because the applicant failed to timely respond by the required date. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed a third TPS application on July 25, 2002, under receipt number LIN 02 249 50064. On November 25, 2002, the Service issued a request for evidence requesting the applicant to submit evidence establishing her eligibility for late registration, her date of entry into the United States, and evidence establishing her continuous residence and continuous physical presence in the United States during the requisite periods. In response to the request, the applicant submitted sufficient evidence which satisfied her continuous residence and continuous physical presence; however, the applicant failed to establish her eligibility for late registration. The director, therefore, denied her TPS application on February 24, 2003. On March 28, 2003, the applicant submitted an appeal from the director's decision. The AAO remanded the case to the director for further consideration and action after the AAO determined that there was not sufficient evidence to show the applicant's record was reviewed thoroughly prior to the decision on this application.

On January 30, 2006, after a thorough review of the file, the NSC director issued a new decision regarding the applicant's TPS application. The director concluded that any Form I-821, Application for Temporary Protected Status, subsequently submitted by the same applicant after an initial application has been filed and a decision rendered, must be considered either as a request for annual registration or as a new filing for TPS benefits. However, if the applicant is filing a Form I-821 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 for TPS applicants, pursuant to Title 8 C.F.R. section 244.17. The applicant, in this case, filed the subsequent Form I-821 on July 25, 2002. As the applicant's prior I-821(s) have been denied, this subsequent application cannot be considered as an application for re-registration. Therefore, this application can only be considered as an application for late initial registration. Although the director found that the applicant had provided sufficient evidence to show that she had entered the United States prior to December 30, 1998, met the continuous residence and continuous physical presence requirements, and established her identity and nationality, the applicant, however, was not eligible for late registration because she has not submitted any evidence to establish that she has met any of the criteria for late

registration described in 8 C.F.R. § 244.2(f)(2). On March 16, 2006, the AAO affirmed the director's decision and dismissed the applicant's appeal.

The applicant filed the current Form I-821 on December 16, 2004, under receipt number WAC 05 082 76317. The CSC director denied that application on July 23, 2005. The applicant has now submitted an appeal from the director's decision.

On appeal, the applicant states that she has been living in the United States since May 27, 1998. The applicant also submits a sworn statement signed by the applicant's husband attesting that the applicant has been living with him in the United States since May 27, 1998; copies of the applicant's and her husband United States Visa with the admission date stamped on May 27, 1998; a sworn statement from [REDACTED] and [REDACTED] stating that they have known the applicant since 1980 in Honduras and that she came to the United States with her husband in May of 1998; a copy of the a birth certificate of the applicant's son who was born on September 23, 1999; a copy of a vaccine record of the applicant's son; and, copies of a Patient Progress Note for the applicant's son.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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. To qualify for late registration, the applicant must provide evidence that during the initial registration period she 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 was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, the applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

Moreover, 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, she is not eligible to re-register for TPS.

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). Consequently, the director's decision to deny the application for TPS will be affirmed.

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 appeal is dismissed.