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U.S. Citizenship
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Services

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M,

[REDACTED]

FILE:

[REDACTED]
[WAC 05 140 81144]

OFFICE: California Service Center

DATE:

SEP 16 2008

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 Vermont Service Center. 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 (AAO) on appeal. The appeal will be dismissed.

The applicant is stated to be a 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 30, 1999, under receipt number SRC 99 238 51478. The Director, Texas Service Center, denied that application due to abandonment on February 2, 2000, because the applicant failed to respond to a request for additional information in support of her TPS application. The director further advised the applicant that a denial due to abandonment may not be appealed; however, the applicant may file a motion to reopen within 30 days from the date of the denial. The record reflects that the applicant did not file a motion to reopen within the requisite timeframe.

On July 3, 2003, the applicant filed a second TPS application under receipt number EAC 03 213 53803, and indicated she was filing a new application. The Director, Vermont Service Center, denied that application on January 7, 2005, after he determined that the applicant failed to establish her eligibility for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods¹. On January 27, 2005, the applicant submitted an appeal from the denial decision. On January 27, 2005, the applicant submitted 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 January 28, 2005, and indicated that she was re-registering for TPS. The Director, California Service Center, 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.

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. 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).

¹ It is noted that on page 2 of the decision, the director incorrectly stated the continuous residence and continuous physical presence dates for El Salvadorans. However, the director previously had stated the correct dates for Hondurans and properly denied the applicant's TPS for failure to establish continuous residence from December 30, 1998, and continuous physical presence from January 5, 1999.

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.