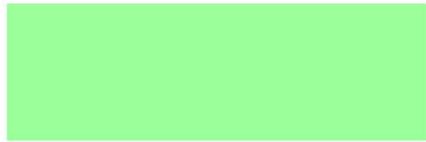


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

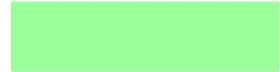


U.S. Citizenship
and Immigration
Services

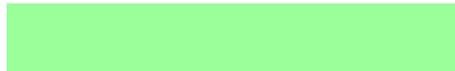


DATE: JUL 15 2013

Office: VERMONT SERVICE CENTER



IN RE: Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied the law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a 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 director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant asserts that he is eligible for late registration because he was included in the Form I-130, Petition for Alien Relative, filed on behalf of his mother.

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 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 Secretary 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 TPS 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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until January 5, 2015, upon the applicant's re-registration during the requisite period.

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. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

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 U.S. Citizenship and Immigration Services (USCIS). 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 AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

USCIS records reflect that on October 28, 1989, the applicant, who was accompanied by his grandmother and uncle, was apprehended near Niland, California. A Form I-221S, Order to Show Cause, was issued on October 31, 1989. On November 2, 1989, a Form I-220A, Order of Release on Recognizance, was issued.

The applicant filed his initial TPS application [REDACTED] on August 6, 2001. The Director, California Service Center, denied that application on March 18, 2003 as it was determined that the applicant was not eligible for TPS as he had failed to file a TPS application during the registration period of January 5, 1999 through August 20, 1999. No appeal was filed from the denial of that application.

The applicant filed a TPS application on May 23, 2006, and indicated that he was re-registering 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. 8 C.F.R. § 244.17. That application was administratively closed as the applicant was not eligible to apply for re-registration for TPS due to the denial of the initial TPS application on March 18, 2003.

Along with the filing of the re-registration application, the applicant provided a statement indicating that on or about July 6, 1999, he mailed a TPS application with filing fee to the Laguna Niguel address in California. The applicant stated that he did not receive any correspondence regarding the filing of that application. USCIS records do not indicate that a TPS application was received prior to August 6, 2001, and the applicant has not provided any credible evidence to support his statement. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant filed the current TPS application on January 10, 2012. The director, in denying the application, determined that the evidence submitted did not establish that the applicant was eligible for consideration under the late registration provisions. The director concluded that the applicant had not provided any new and compelling evidence that overcame the reason for denying the initial TPS application.

On appeal, the applicant states that he was also under deportation proceedings pursuant to his illegal entry into the United States in 1989. The Form I-221S advised the applicant that his appearance for a hearing before an Immigration Judge would be set at a later time and place. There is nothing in the record to indicate that deportation proceedings were implemented or that the applicant sought relief from removal.

On appeal, the applicant provides a copy of a Form I-130 which was filed on April 30, 2001. USCIS records reflect that on September 28, 2005, the petition was denied. A pending or approved Form I-130 is not an application for change of status as provided in 8 C.F.R. 244.2(f)(2), and does not render the applicant eligible for late registration. Contrary to the applicant's assertion, he was not a "minor child" at the time the Form I-130 was filed on his mother's behalf.

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 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.