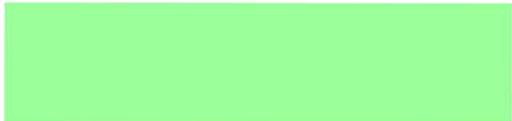


(b)(6)

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

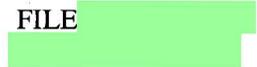


U.S. Citizenship
and Immigration
Services



DATE: **OCT 06 2014**

Office: VERMONT SERVICE CENTER

FILE 

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 current 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
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. On March 6, 2014, 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 never received a notice requesting evidence to establish late registration eligibility. The applicant states that his father applied for and was approved TPS. The applicant states at the time his father was approved TPS “we did not submit any further documentation because we believed that the children would automatically qualify for the TPS under the father. It was not until the 2002 that we were told that the children would have to submit separate petitions.” The applicant requests that this application be reconsidered and approved as he has resided in the United States since 1998 and has a family.

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 *Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012).

The record reveals that the applicant filed his initial TPS application () on July 8, 2002. On December 18, 2002, the Director, Texas Service Center, denied the application due to abandonment (the applicant had failed to respond to a notice dated October 3, 2002,

requesting the applicant to submit evidence of eligibility for late registration). No motion was filed from the denial of that application.¹

The applicant filed the current TPS application on July 12, 2013. On November 22, 2013, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, provided documentation establishing his continuous residence and continuous physical presence in the United States during the requisite periods.

The director determined that the applicant had failed to submit evidence to establish he was eligible for late registration and denied the application

On appeal, the applicant states that his father is a TPS registrant and submits copies of Form I-797, Notice of Action, relating to the initial Form I-821, Application for Temporary Protected Status, and Form I-765, Application for Employment Authorization of his father. USCIS records confirm that the applicant's father is currently a TPS registrant.

Section 101(b)(1) of the Act defines a child as an unmarried person under twenty-one (21) years of age. In *Matter of N-C-M-*, 25 I&N Dec. 535 (BIA 2011), it was held that in order to qualify for late initial registration for TPS, an applicant filing as the "child of an alien currently eligible to be a TPS registrant" must establish that he or she was a "child" only "at the time of the initial registration period," not at the time when the application for late initial registration is filed.

During the initial registration period (January 5, 1999, through August 20, 1999), the applicant, who was born on July 19, 1974, was twenty-four (24) and twenty-five (25) years old. Therefore, the applicant cannot qualify for late registration as a child of an alien currently eligible to be a TPS registrant. *Id.*

The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that he has met any of the provisions outlined in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this ground will be affirmed.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Siddiqui v. Holder*, 670 F.3d at 741.

¹ A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

An alien shall not be eligible for TPS under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

Beyond the decision of the director, on November 22, 2013, the applicant was also requested to provide certified judgment and conviction documents from the court(s) for all arrests, including the arrests on March [REDACTED] and March [REDACTED] by the [REDACTED] Police Department of Georgia for driving without a valid license.

The applicant, in response, submitted a criminal history record from the Georgia Crime Information Center, which indicated that on February [REDACTED], in Case no. [REDACTED], the applicant pled *nolo contendere* to violating Georgia Code Ann. § 40-5-20(a), driving without a valid license, a misdemeanor. The applicant received a suspended sentence of 12 months and was ordered to pay a fine. The applicant, however, did not provide the final court disposition for his arrest on March [REDACTED].

Accordingly, the applicant is also ineligible for TPS because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Therefore, the application must also be denied for this reason.

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 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.