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U.S. Citizenship
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[REDACTED]

FILE: [REDACTED]
[WAC 05 098 71893]

Office: CALIFORNIA SERVICE CENTER

Date: APR 30 2007

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 California Service Center. Any further inquiry must be made to that office.

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 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 Form I-821, Application for Temporary Protected Status, after the initial registration period had closed. The Director, Texas Service Center, denied that application on October 25, 2002, after determining that the applicant had failed to establish he was eligible for late initial registration.

A subsequent appeal was dismissed by the Director, AAO, on April 21, 2003, who determined that in addition to the applicant being ineligible for late initial registration, he had also failed to establish that he had continuously resided in the United States since December 30, 1998.

The applicant filed the current Form I-821 on January 6, 2005, 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 an alien is filing a re-registration application, 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 applicant's Federal Bureau of Investigation fingerprint results report shows that on August 14, 2001, he was arrested by the Hialeah Police Department in Florida and charged with prostitution and petit theft. On October 24, 2001, he was arrested by the Metro-Dade Police Department in Florida for failure to appear on the prostitution and petit larceny charges. However, the final court dispositions of these arrests are not included in the record of proceeding.

In removal proceedings held on December 14, 1999, an Immigration Judge in Harlingen, Texas, ordered the applicant deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the District Director of the Harlingen, Texas, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on February 10, 2000.

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.