



U.S. Citizenship
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Services

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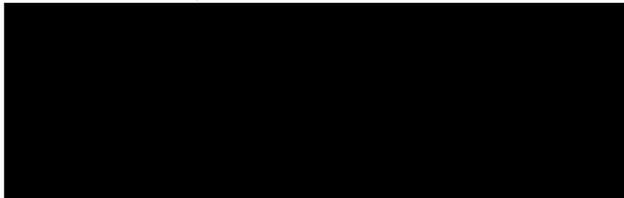
Office: California Service Center

Date: MAR 06 2007

[WAC 05 074 75729]

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

for Robert P. Wiemann, Director
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 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 late initial TPS application on January 31, 2002, under CIS receipt number SRC 02 096 53614. The director, Texas Service Center, denied that application on May 31, 2002, because the applicant failed to establish eligibility for late initial registration. The record reflects that a subsequent appeal to the AAO was dismissed by the AAO Director on September 18, 2002. The AAO director affirmed the decision of the Texas Service Center director. The applicant filed a motion to reopen/reconsider the AAO's decision on November 20, 2002. The AAO dismissed the motion, on November 29, 2005, as untimely filed, and affirmed its previous decision dismissing the appeal.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 13, 2004, and indicated that he was re-registering for TPS. The director, California Service Center, denied that application on July 23, 2005, as 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, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

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 continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Hondurans was from January 05, 1999, through August 20, 1999. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on December 13, 2004.

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).

On appeal, the applicant states that he has been in the United States since 1996, and that he would like the opportunity to live and work freely to support his family. With the appeal, in an attempt to establish eligibility for TPS, the applicant submits copies of:

1. A letter in Spanish, from the Internal Revenue Service, dated June 14, 2005;
2. A pay stub issued in January 2005;
3. Twelve pay stubs issued in the years 2001 – 2005; and
4. An unclear receipt from Vizon Telecom.

This evidence, however, does not establish the applicant's eligibility for late registration for TPS.

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, for this additional reason, the director's decision to deny the application for TPS will be affirmed.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was: 1) arrested by the Miami Police Department, Miami, Florida, on August 17, 2002, and charged with Driving Under the Influence; 2) arrested by the Metro Dade Police Department, Dade County, Florida, on June 15, 2004, and charged with BW Driving While Intoxicated; 3) arrested by the Palm Beach County Sheriff's Office, on October 2, 2004, and charged with Operate Motor vehicle WO Valid License. The AAO notes that the final court dispositions are not in the record of proceeding. CIS must address these arrests and/or any convictions in any future proceedings.

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 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.