

DISCUSSION: The application was denied by the Director, Texas 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 indicated on his application that he was last present in the United States without a lawful admission or parole on January 19, 1999. This is confirmed by Service records. He was served with a Notice to Appear on January 20, 1999. On March 14, 2000, an immigration judge ordered the applicant removed *in absentia*. A Warrant of Removal/Deportation was issued on March 29, 2000. The applicant filed the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on June 17, 2002. The director denied the application because the applicant failed to establish he had been residing in the United States since December 30, 1998, continuously physically present in the United States since January 5, 1999, and was eligible for late initial registration.

On appeal, the applicant states that he initially entered the United States in 1997 and that the person who completed his application did not disclose this information. He submits a change of address form dated February 15, 1997 that was included with his initial application. He asserts that he is eligible because he entered before December 28, 1998.

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 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.

The term continuously physically present, as used in 8 C.F.R. § 244.1, means actual physical presence in the United States since January 5, 1999.

The term continuously resided as used in 8 C.F.R. § 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998.

To qualify for late initial registration the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant. (A marriage must occur prior to the initial registration period of January 5, 1999 to August 5, 1999.)

The burden of proof is upon the applicant to establish that he or she meets the above requirements for late registration. Applicants shall submit all documentation as required in the instructions or requested by the Service. 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 applicant has failed to provide evidence that he was continuously physically present in the U.S. since January 5, 1999. Other than the change of address form, he presented no documentation dated prior to January 19, 1999. Further, he provided no evidence that he met any of the criteria for late

filing. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.