



U.S. Citizenship  
and Immigration  
Services

100-1

[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: AUG 01 2004

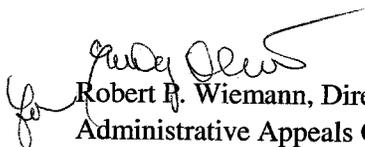
IN RE: Applicant: [REDACTED]

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

  
Robert R. Wiemann, Director  
Administrative Appeals Office

**PUBLIC COPY**

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 director determined that the applicant failed to submit evidence to establish that he was eligible for filing after the initial registration period from January 15, 1999 to August 20, 1999. The director also determined that the applicant had failed to comply with a request to appear to be fingerprinted. The director, therefore, denied the application.

On appeal, the applicant states he filed his first application for TPS on July 12, 2001 and the application was approved on July 12, 2001. He states that a subsequent application was approved on July 6, 2002. The applicant provides a new mailing address and surmises that any instructions regarding his application must have been lost in the mail.

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 as 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.
- (g) Has filed an application for late registration with the appropriate CIS director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within 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 in the United States since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite time period.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record reflects that the applicant filed his initial TPS application on July 12, 2001.

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 Citizenship and Immigration Services (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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his initial TPS application on July 12, 2001, after the initial registration period for Hondurans had closed. To qualify for late registration, the applicant must

provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On September 27, 2001, the applicant was provided the opportunity to submit: (1) evidence to establish that he had continuously resided in the United States since December 30, 1998; (2) evidence to establish that he had been continuously physically present in the United States since January 5, 1999; and, (3) evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. While the applicant, in response, provided documentation relating to his residence in the United States, he failed to submit evidence to establish his eligibility for late registration. The director concluded the applicant had not established eligibility for late registration. On October 24, 2003, the director denied the application.

On appeal, the applicant states that he filed his first application for Temporary Protected Status on July 12, 2001, and he claims that it was approved on December 5, 2001. He states further that his second TPS application was approved on July 6, 2002. The applicant submits copies of two Employment Authorization Document(s) (EAD) which show validity dates of December 5, 2001 through July 5, 2002, and July 6, 2002 through July 5, 2003, respectively. Pursuant to 8 C.F.R. § 244.5(b) and 8 C.F.R. § 244.10(e)(2), applicants who establish *prima facie* eligibility for TPS are issued EADs as a temporary treatment benefit until a final decision has been made on the TPS application. The record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on July 12, 2001. He submitted subsequent TPS applications on May 31, 2002 and June 20, 2003. However, the record does not reflect that the applicant submitted an application for Temporary Protected Status within the initial registration period from January 5, 1999 through August 20, 1999. 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 conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has complied with a request to appear for fingerprinting.

The record reflects that on August 9, 2002, a Fingerprint Notification form was mailed to the applicant at [REDACTED], requesting that he appear for fingerprinting at the INS South Los Angeles-Gardena office on September 12, 2002. The record does not contain any evidence that the applicant appeared to be fingerprinted as required in 8 C.F.R. § 244.6. Therefore, the director's decision to deny the application on this ground will also 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.