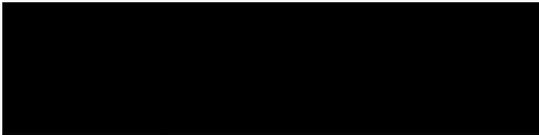




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

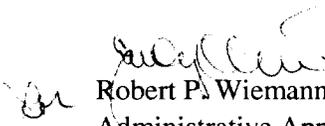
IN RE: Applicant: [REDACTED] AUG 17 2014

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 P. Wiemann, Director
Administrative Appeals Office

2014 AUG 17 10:51 AM

Identifying data entered to
prevent disclosure of information
involved in the investigation

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 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant states: "The applicant is a nonimmigrant or has been granted voluntary departure status any (sic) relief from removal."

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 Service director within a 60-day period immediately following the expiration or termination of condition 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 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 record of proceeding confirms that the applicant filed his initial TPS application on May 30, 2003, 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 or she was either in a valid nonimmigrant 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, and he or she 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). The director determined that the applicant had not filed for late registration within the appropriate 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) above. On September 3, 2003, the director denied the application.

On appeal, the applicant states: "The applicant is a nonimmigrant or has been granted voluntary departure status any (sic) relief from removal." While the applicant seemingly is claiming eligibility for late registration pursuant to 8 C.F.R. § 244.2(f)(2), he did not submit any evidence to support that claim.

The applicant has failed to establish that he met the qualification for late registration, and to overcome the findings of the director pursuant to 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish eligibility for late registration will be affirmed.

Beyond the decision of the director, it is noted that the applicant stated on the Form I-821, Application for Temporary Protected Status, that he entered the United States on August 10, 1999. In addition, the record of proceeding contains Form I-213, Record of Deportable/ Inadmissible Alien, which indicates that the applicant claimed to have left Honduras on July 28, 1999, and traveled by boat and bus to Tijuana, Mexico, arriving on August 7, 1999. The applicant was apprehended by the Border Patrol as he attempted to enter the United States without inspection near San Diego, California, on August 10, 1999. The applicant was released on bond and ordered to appear before an immigration judge. The applicant did not appear at a subsequent hearing. On October 20, 1999, an immigration judge ordered the applicant removed *in absentia*. It is noted that the record also contains an outstanding Form I-205, Warrant of Removal/Deportation, issued on February 10, 2000, in San Diego, California. The applicant failed to appear at the San Diego District Office on March 10, 2000 for his enforced departure.

Based on his attempted entry into the United States on August 10, 1999, the applicant, therefore, could not have met the criteria of continuous residence in the United States since December 28, 1998, and continuous physical presence in the United States since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c).

The burden of proof is upon the applicant to establish 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.