



U.S. Citizenship
and Immigration
Services

MM

[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER Date:

400 1 9 004

IN RE:

Applicant:

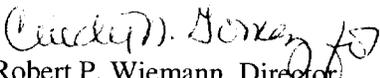
[REDACTED]

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 P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish that he had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant provides a statement.

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 phrase 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.

The phrase 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 phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. 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.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On May 18, 2000, the applicant was requested to submit evidence establishing his continuous residence since December 30, 1998, and continuous physical presence since January 15, 1999, in the United States. The applicant was also requested to submit original documents verifying his nationality and identity. Based upon the Federal Bureau of Investigation (FBI) fingerprint identification report contained in the record, that indicated the applicant had provided the name [REDACTED] to immigration officers in Brownsville, Texas, on July 15, 1999, the director requested verification of the applicant's identity. The director also requested evidence of the applicant's date of entry, and an explanation for his arrest by immigration officers in Brownsville, Texas, on July 15, 1999. The applicant, in response, provided the following documentation:

1. A letter from the applicant dated July 3, 2000, stating that he used the name [REDACTED] that is, in fact, his cousin's name, and that the applicant entered the United States only once on July 1, 1999, and not at any other time;
2. An original birth certificate;
3. An Identity Certificate from the Consulate General of Honduras, Houston, Texas, dated July 26, 1999;
4. An original Republic of Honduras, Primary Public School Diploma, dated November 30, 1994;
5. A Layaway Contract with Cash America Pawn of Houston, Conroe, Texas, dated September 25, 1999;
6. Western Union receipts dated October 15, 1999, [illegible date], March 11, 2000, April 13, 2000;
7. A photocopy of a Texas photo identification card, expiration July 20, 2006;
8. A photocopy of a Social Security card; and,
9. A typed "Certificacion de Estudios" for the years 1995 through 1998.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on August 19, 2003. It is noted that on the initial Form I-821, Application for Temporary Protected Status, the applicant indicated his date of entry as January 20, 1998, and indicated he had never been arrested or been in immigration proceedings. The director's decision stated that: the applicant's subsequent applications submitted as annual re-registration provided his date of entry as July 1, 1999; the applicant provided no evidence that he was present in the United States before December 30, 1998; and, the applicant's letter in response to the request for evidence indicated that he had entered the United States only once, on July 1, 1999.

On appeal, the applicant reasserts his claim and states that the information concerning his date of entry is correct. The applicant indicates that he believes he has complied with the requirements and further states:

...I was told by a USA Citizen N-400 person to come to the USA because the United States say they will give work permit to people from my country and I believe and heard on TV, after entering I had 20 days to file.

The applicant has not submitted any evidence to establish his qualifying continuous residence or continuous physical presence in the United States for the dates specified by the Attorney General for Honduras, in order to receive TPS benefits. The evidence of record indicates that the applicant entered the United States in July 1999, approximately seven months after he would have been required to establish continuous residence and continuous physical presence in the United States. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). 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.

It also is noted that another record, [REDACTED] relating to the applicant's removal proceedings and charges of entering without inspection, was created at Brownsville, Texas, on July 15, 1999. This information is based on an FBI fingerprint report, and indicates the name on that record as [REDACTED] with date of birth as March 29, 1982.

ORDER: The appeal is dismissed.