



U.S. Citizenship
and Immigration
Services

M

[Redacted]

FILE:

[Redacted]

Office: NEBRASKA SERVICE CENTER

Date:

4/28/15

IN RE:

Applicant:

[Redacted]

APPLICATION:

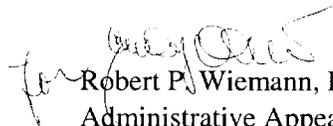
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application was denied by the Director, Nebraska 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 establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he has maintained continuous residence in the United States since 1997.

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 conditions described in paragraph (f)(2) of this section.

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.

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.

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 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 period.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed his initial application on July 7, 2003.

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 application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. *See* 8 C.F.R. § 244.2(g).

On July 31, 2003, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his nationality and identity, his date of entry and continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant was also requested to submit two photographs. The applicant, in response, provided evidence of his nationality and identity, and evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. The applicant did not present any evidence of his eligibility for late registration. The director also noted that the applicant submitted an identification card issued in Honduras on January 6, 1999, and that the applicant had, therefore, failed to establish that he entered the United

States prior to December 30, 1998, maintained continuous residence since December 30, 1998, and, maintained continuous physical presence since January 5, 1999. Therefore, the director denied the application.

On appeal, the applicant states that he entered the United States in January 1997 and maintained his continuous physical presence in this country from that date to the present. The applicant also provided additional evidence in an attempt to establish his continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. 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 failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on July 31, 2003, to submit evidence establishing his qualifying residence and physical presence in the United States. The director listed in his decision, the evidence furnished by the applicant in response to his request for additional evidence. He noted that the money transfer receipts furnished are hand-written, and that hand-written receipts alone are inconclusive evidence, as it is difficult to verify their validity. The director further noted that the applicant appears to have been in Honduras on January 6, 1999, the date his Honduran identification card was issued. The director concluded that the applicant had failed to establish his qualifying entry, residence, and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant furnished:

1. A personal statement.
2. An undated letter from [REDACTED] notarized on November 22, 2003.
3. An undated letter from [REDACTED] notarized on November 22, 2003.
4. An undated letter from [REDACTED] notarized on November 22, 2003.

The applicant also resubmits evidence previously provided.

In his statement, the applicant again claims that he entered the United States in January 1997 and has maintained continuous physical presence since then. According to the applicant, he lost his Honduran identification card and asked family members to obtain a new one. The applicant states that there is no need to be physically present in Honduras to get the identification card. However, the applicant offers no evidence in support of this claim. Furthermore, he does not explain how his fingerprint appears on the identification card if he was not physically present in Honduras.

In his letter, [REDACTED] states that the applicant has been his customer since 1998. The only evidence provided [REDACTED] in support of this claim is a receipt dated May 15, 2002. Moreover, [REDACTED] has not demonstrated that his knowledge of the applicant's entry into the United States is independent of his personal relationship with the applicant. If this knowledge is based primarily on what the applicant told him about his entry into the United States, then his statement is essentially an extension of the applicant's personal testimony

rather than independent corroboration of that testimony. If that is the case, [REDACTED] can only attest to the applicant's presence in the United States on the dates the applicant made a purchase from his store.

[REDACTED] states that the applicant, his brother, entered the United States in 1998 and lived with him from that time to 2001, and then moved in again with him at a later date. According to [REDACTED] the applicant has remained in this country since his arrival. However, the statement from [REDACTED] regarding the applicant's claimed presence in the United States before December 30, 1998 is not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of continuous residence or physical presence.

[REDACTED] claims that she has known the applicant since 1998 when he came to her office. According to [REDACTED] she performed some work for him, and the applicant did some carpentry work for her. However, [REDACTED] failed to provide any corroborating evidence for this claim. She claims she has performed work for the applicant, but has failed to provide invoices, bills or receipts. In fact, [REDACTED] has not established what type of work she does. In addition, it should be noted that the letter is not signed, but has a rubber-stamp signature affixed to it. Consequently, the statement is of little or no probative value.

The applicant has not submitted sufficient evidence to establish his qualifying residence or physical presence in the United States during the period from December 30, 1998 and January 30, 1998, respectively. 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 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.