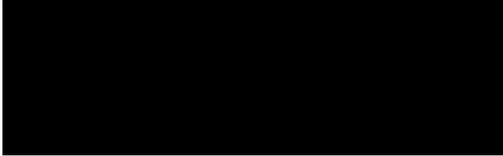




U.S. Citizenship
and Immigration
Services

M



FILE:



Office: TEXAS SERVICE CENTER

Date:

AUG 31 2004

IN RE:

Applicant:



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**

PUBLIC COPY

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 states that he 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 was eligible for late registration.

On appeal, the applicant states that he has been residing in the United States since May 31, 1998, and resubmits the visa page of a passport. The applicant also states:

I would also like to confirm that I have had TPS before and ever since [sic] I applied I have not received any answer back[.] I have also not received anything asking me fo[r] more evidence that is why I have not sent anything [sic].

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.
- (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.

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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS), on June 5, 2003.

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 or 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).

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 August 13, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on November 4, 2003.

The applicant submitted evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. The applicant submitted the visa page of a passport, reflecting his name, the issuance of a C1/D, crewman visa, and an entry into the United States on May 31, 1998. The applicant did not submit evidence to establish that he remained in valid immigration status during the time of the initial registration period from January 5, 1999 through August 20, 1999, or that he filed within 60 days of any termination of that status. The applicant has not submitted 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 decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence and continuous physical presence during the requisite time periods. In response to the director's request for additional evidence, the applicant submitted two documents;

the photocopied Bell South telephone bill, dated December 2, 1999, appears to have been altered as the original customer name seems to have been replaced with the applicant's name inserted in different typeface in its place. The United States Postal Service customer receipt, dated February 27, 1999, contains no specific detail identifying the applicant.

Moreover, the applicant has provided insufficient evidence to establish that he is a national of a foreign state designated by the Attorney General and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The applicant indicated on his application that he was a citizen of Honduras. However, in support of his initial application, the applicant submitted a copy of the visa page of a passport that indicates: the applicant's name; the issuance of a C1/D crewman visa; a stamped entry into the United States on May 31, 1998, at Miami, Florida; and, lists the applicant's nationality as Jamaican. The applicant also submitted evidence including: a Republic of Honduras Identification Card issued June 19, 1997; and, the visa page of a passport reflecting the applicant's name, the issuance of a C1/D, crewman visa, a stamped entry into the United States on September 30, 1991, at Miami, Florida, and listing the applicant's nationality as Honduran. The nationality the applicant claimed and/or established at the time of his most recent entry into the United States, was as a Jamaican. Jamaica is not a designated foreign state under Section 244 of the Act. Furthermore, the applicant did not explain how he obtained passports and visas identifying him both as a national of Jamaica and of Honduras. The applicant has failed to establish that he is a national of a foreign state designated by the Attorney General.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to submit any objective evidence to explain or justify the apparent alteration of the Bell South bill and to explain how he obtained passports and visas identifying him both as a national of Jamaica and of Honduras. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy the nationality requirement and the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2 (a), (b), and (c). The application must also be denied for these reasons.

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.