



U.S. Citizenship
and Immigration
Services

M-1

[Redacted]

FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: 03/11/2004

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 P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

U.S. Citizenship and Immigration Services
Administrative Appeals Office
Texas Service Center
1000 West 11th Street
Austin, Texas 78703
Tel: (512) 425-2000
Fax: (512) 425-2001
www.uscis.gov

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 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 had been continuously physically present in the United States from January 5, 1999 to the date of filing of the TPS application, and 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 he did not apply for TPS during the initial registration period because he was unemployed at the time, and he was experiencing financial difficulties. The applicant submits additional evidence.

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 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 June 21, 2002.

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 application after the initial registration period for Hondurans had closed. In support of his application, the applicant submitted receipts for twelve money transfer transactions, purchased during the period January 13, 1998 through December 1, 1998. In a notice of intent to deny, dated July 9, 2002, the applicant was requested to submit evidence to establish that he had been continuously physically present in the United States from January 5, 1999 to the date of filing of the TPS application, and evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. In response, the applicant submitted copies of paychecks dated February 16, 1999, March 30, 1999, February 9, 1999, August 3, 1999, and, May 21, 1999. The director determined the evidence submitted did not establish the applicant's continuous physical presence in the United States from January 5, 1999 to the date of filing of the application. In addition, the director concluded that the applicant had failed to submit evidence to establish his eligibility for late registration. On August 14, 2002, the director denied the application.

Aliens applying under the provisions for late initial registration must prove that they are eligible because during the initial registration period of January 5, 1999 through August 20, 1999, they fell within the provisions described in paragraph (f)(2) above.

The applicant, on appeal, claims he has lived in the United States since 1997. He states he did not file an application during the initial registration period because his job had been cancelled and he had to give priority to food and rent and other necessities. The applicant states further that he was scared to apply for TPS because he feared that he would be deported if he submitted the application. The applicant submits a copy of a July 21, 1999 cable service bill, and a copy of a November 29, 1999 telephone bill as evidence of his residence in the United States. However, the evidence submitted is not sufficient to establish that the applicant was continuously physically present in the United States from January 5, 1999 through June 21, 2002, the date he filed the application for Temporary Protected Status. In addition, the applicant did not submit any evidence to establish that he was eligible for late registration.

The applicant has failed to establish that he has been continuously physically present in the United States from January 5, 1999 through the date of filing of the TPS application, as required by 8 C.F.R. § 244.2(b). In addition, the applicant has not established 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 decision to deny the application will be affirmed.

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.