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U.S. Citizenship  
and Immigration  
Services

*MU*

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: JUL 26 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 for*  
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 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 denied the application because the applicant failed to establish he was eligible for late registration. The director also found that the applicant had failed to establish his continuous residence in the United States during the requisite periods.

On appeal, the applicant provides a brief 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 is eligible for temporary protected status only if such alien establishes that he or she:

- (a) is a national of a 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 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, or
  - (2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:
    - (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.

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.

The first issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

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 first application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on October 16, 2001.

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/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 or she 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 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 proceedings confirms that the applicant filed his application after the initial registration period had closed. On February 25, 2002, in a notice on intent to deny, 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 was also requested to submit evidence establishing his continuous residence in the United States during the requisite timeframe.

The director determined that the applicant had failed to establish he was eligible for late registration. The director also determined that the applicant failed to establish continuous residence in the United States during the required timeframe. The director denied the application on August 29, 2002.

On appeal, the applicant fails to submit evidence overcoming the findings of the director.

The applicant does indicate that he is in a common-law marriage but fails to submit evidence of eligibility for late registration as the spouse of a TPS registrant. The applicant provided no evidence on appeal to demonstrate that he is eligible for late registration. Consequently, the applicant has not established that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). The applicant has not overcome this part of the director's decision, and the application must be denied for this reason.

The second issue raised by the director to be addressed in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998. The applicant must also have been in the United States during the requisite timeframe and otherwise satisfy the requirements under 8 C.F.R. § 244.2, as stated above.

The record contains an "Employment Verification Letter," dated May 26, 2000, from Security Fence Company, stating, in pertinent part, that:

This letter is to verify that the above named individual (the applicant) has been working for Security Fence Company since January 11, 1999, until the present time. Mr. [REDACTED] is currently earning a salary of \$280.00 per week, plus overtime when it is required. Mr. [REDACTED] works as a fence installer.

The record also contains a letter, dated May 25, 2002, from the United States Government Selective Service System advising the applicant of his obligation to register with the Selective Service System.

The director determined that the aforementioned documentation was not sufficient evidence to establish that the applicant was continuously residing in the United States since December 30, 1998.

On appeal, the applicant resubmits the above-mentioned employment letter. The applicant provided no additional credible evidence to establish that he has continuously resided in the United States during the required timeframe. The applicant has failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(c). For this reason, the application may not be approved.

Beyond the decision of the director, the applicant has not established that he has been continuously physically present in the United States since January 5, 1999. Therefore, the application must also be denied for this reason.

An alien applying for TPS 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.