



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: JUL 29 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.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, on November 18, 2002. The applicant filed a timely appeal that was reviewed and dismissed by the Director, Administrative Appeals Office (AAO), on April 16, 2003. The case is now before the AAO on a Motion to Reopen. The motion will be dismissed, and the prior denials of the case will be affirmed.

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, Texas Service Center, denied the application because the applicant failed to establish he was eligible for late registration. The Director, AAO, dismissed the appeal, affirming the service center director's determination that the applicant had not established that he was eligible for late registration.

On motion, the applicant states he would like his case reopened to give him the opportunity to be legal in this country. The applicant further states that he is submitting evidence to indicate that he has been living in the United States "since 1998 until this day," and reiterates his statement made on appeal that he did not file earlier because he was afraid of being deported. The applicant also resubmits documents that had previously been entered into the record in response to the director's Notice of Intent to Deny and on appeal. The applicant also submits new evidence including: purchase receipts dated in 2002 and 2003, that bear no names; a Florida Power and Light bill dated October 21, 2002, that bears no name; and, wire transfer receipts dating between December 1998 and April 2003.

It is noted that the Western Union wire transfer receipts dated between December 1998 and December 2001, indicate addresses for the applicant in: Denver, Colorado; Orlando, Florida; Davenport, Florida; and, Miami, Florida. The dates would appear to indicate that the applicant moved every few months back and forth between these various locations. Two of the receipts are dated on the same date, November 10, 2000, but indicate that the applicant lived both at an address in Orlando, Florida, and at a different address in Davenport, Florida, on that date. The Western Union receipt dated March 19, 2001, provides a different address in Miami, Florida, for the applicant than that provided on a Ficohsa Express wire receipt dated eleven days earlier on March 8, 2001.

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 application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on April 29, 2002.

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).

Furthermore, a motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

The documentation submitted by the applicant on motion relates to the issue of his continuous residence and continuous physical presence in the United States, and not to the reason for denial identified by the service center director and Director, AAO, of whether he is eligible for late registration under the provisions of 8 C.F.R. § 244.2(f)(2). The applicant has not asserted any new facts to be provided at the reopened proceeding. Furthermore, the documentary evidence submitted on motion is inconsistent and, therefore, is not sufficiently credible. The applicant has not submitted any evidence on motion to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). For these reasons, the submissions do not meet the requirements of a motion to reopen, and the motion must be denied.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient credible evidence to establish his qualifying continuous residence or continuous physical presence during the requisite time periods. As the motion to reopen is dismissed, these issues will not be examined at this time.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden

ORDER: The motion is dismissed. The previous decision of the Director, AAO, is affirmed.