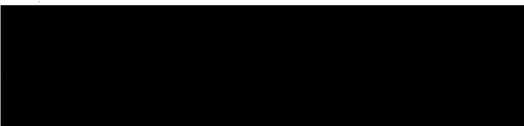




U.S. Citizenship
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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JUN 01 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

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. § 1254a.

The director noted that the applicant furnished various documentation in response to his request for additional evidence. The applicant, however, failed to submit any 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 that he is again submitting evidence of his presence in the United States since 1998. He indicates that when he entered the United States, he immediately started to work. The applicant further states that he applied for TPS since the inception of the program, but he was never sent any work permits. He claims that he is not a late registrant; he applied for TPS in 1999, 2000, 2001, and 2002. The applicant requests that his record be examined.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 used in 8 C.F.R. § 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998. 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 used in 8 C.F.R. § 244.1 means actual physical presence in the United States for the entire period specified in the regulations and since January 5, 1999. 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.

Aliens applying under the provisions for late initial registration must provide evidence to prove that they are eligible because during the initial registration period from January 5, 1999 through August 20, 1999, they fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

The applicant, on appeal, claims that he is not a late registrant because he had applied for TPS since the inception of the program. A review of the record of proceeding reflects that the applicant first attempted to file his TPS application on August 26, 1999. He was advised that the application was being rejected because it was not received by close of business on August 20, 1999. He was also advised that late initial registration may be accepted if he submits evidence that he qualifies because he falls under one of the four categories listed in 8 C.F.R. § 244.2(f)(2). On May 24, 2000, the applicant again filed a TPS application. The director denied this application on April 21, 2001, due to abandonment.

The applicant once again filed a TPS application on July 15, 2002. This application is the subject for this appeal. The applicant was requested on November 21, 2002, to submit: (1) evidence establishing his nationality; (2) evidence to show that he has continuously resided in the United States since December 30, 1998; (3) evidence to show that he has been continuously physically present since January 5, 1999; and (4) evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. Because the applicant's response did not contain all of the requested information, the director denied the application.

The applicant, on appeal, submits documentation establishing that he was residing in the United States since November 1998 to the date he filed his application. The applicant, however, failed to submit evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application will be affirmed.

The burden of proof is upon the applicant to establish that he 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. The appeal will be dismissed.

ORDER: The appeal is dismissed.