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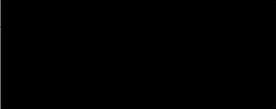
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**U.S. Citizenship
and Immigration
Services**



FILE:



Office: NEBRASKA SERVICE CENTER

Date: JUN 29 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
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. § 1254.

The director determined that the applicant failed to submit evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director also determined that the applicant had not submitted sufficient evidence to establish continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The director, therefore, denied the application.

On appeal, the applicant claims that he has been in the United States since February 16, 1995, and that he has never left this country since that time. The applicant submits additional evidence of his residence in the United States.

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.

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.

Continuously physically present, 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.

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.

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 July 8, 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 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 first issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

On December 3, 2002, the applicant was requested to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant was also requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, the applicant submitted the following documentation:

- 1.) utility bills dated November 25, 1997, January 13, 1998, December 13, 1999, and June 3, 2002;
- 2.) pay stubs dated September 1, 1997, and October 4, 1999;
- 3.) an immunization record for the period from September 15, 1987 to September 27, 1997 for an [REDACTED] whose date of birth is July 9, 1987;
- 4.) a bank teller receipt dated February 4, 1998;
- 5.) an Illinois temporary driver's license, issued on November 26, 1997;
- 6.) a wire transfer receipt dated August 15, 1998; and,
- 7.) an employment verification letter from the payroll manager of Imperial Service Systems, Inc., stating that an Ivan Escobar worked there from March 29, 1997 to December 7, 1998.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods. On March 5, 2003, the director denied the application. On appeal, the applicant reiterates his claim to eligibility for TPS and submits the following documentation:

- 8.) eight pay stubs in the name Ivan Escobar for the period from March 2, 1998 to June 25, 2001; and,
- 9.) twelve utility bills in the various names [REDACTED] for the period from April 1, 1999 to September 12, 2002.

Notwithstanding the variations in the spelling of the applicant's name on the utility bills, the documentation submitted by the applicant appears to corroborate his claim. Therefore, based on the documents furnished on appeal, in conjunction with other evidence in the record of proceeding, it is concluded that the applicant has established that he has continuously resided in the United States since December 30, 1998, and that he has been physically present in the United States since January 5, 1999. The applicant has submitted sufficient evidence to establish that he has met the continuous residence and continuous physical presence criteria for TPS. Therefore, the applicant has overcome this portion of the director's decision.

The second issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application for TPS on July 8, 2002, after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid nonimmigrant 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 or she 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).

As stated above, on December 3, 2002, the applicant was requested to submit evidence establishing his qualifying residence and physical presence in the United States, and to establish 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. However, the applicant did not submit any documentation to establish that he was eligible for late registration.

On March 5, 2003, the director denied the application because he determined that the applicant had not established that he was eligible for late registration. On appeal, the applicant claims that he has been in the United States since February 16, 1995, and he states that he has never left this country since that time. It is noted that the applicant listed his date of entry on the Form I-821 as December 4, 1996. He requests that his

application be re-considered. The applicant submits the additional evidence of his residence in the United States as shown in items Nos. 1 through 9, above. However, this evidence does not mitigate the applicant's failure to file his application for TPS within the initial registration period. The applicant has not furnished any evidence to establish that he met any of criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this ground will be affirmed.

It is noted that the FBI fingerprint record indicates that the applicant was "arrested or received" at McAllen, Texas, on December 8, 1996, under the record [REDACTED]

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.

ORDER: The appeal is dismissed.