



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: OCT 18 2011

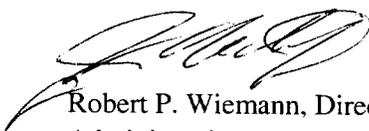
IN RE: Applicant: [REDACTED]

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, Director
Administrative Appeals Office

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prevent clearly unwarranted
invasion of personal privacy**

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) 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 denied the application because the applicant failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and physical presence in the United States during the requisite periods.

On appeal, the applicant submits a statement and 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 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 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.

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. 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 burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

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

The applicant submitted the following evidence with the Form I-821, Application for Temporary Protected Status, in an attempt to establish continuous residence and physical presence in the United States:

1. pay statements from G & G Construction Company during the following pay periods: August 15 to August 28, 1999; February 13 to February 26, 2000; April 9 to April 22, 2000; and,
2. a mailing envelope from urgente express postmarked December 23, 1998, addressed to the applicant at [REDACTED]

On July 11, 2003, the applicant was requested to submit additional evidence establishing his qualifying continuous residence and physical presence in the United States. The notice was mailed to the applicant at his address of record, but was returned to the Nebraska Service Center marked "Insufficient address."

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods, and denied the application on December 9, 2003.

On appeal, the applicant submits the following evidence:

3. telephone bills dated: September 19, 2001; October 19, 2001; November 19, 2001; February 19, 2002; March 19, 2002; April 19, 2002; May 19, 2002; August 10, 2002; December 10, 2002; and, November 16, 2003;
4. a monthly bill dated January 31, 2002, from Citizens Gas & Coke Utility of Indianapolis, Indiana;
5. an overdue notice dated January 22, 2002, from Med Shield Incorporated Credit and Collections in Indianapolis, Indiana, relating to medical services received at the emergency room of Wishard Memorial Hospital in Indianapolis, Indiana, on September 6, 2001;
6. a bill dated September 16, 2001, for medical services performed at Wishard Memorial Hospital in Indianapolis, Indiana on September 6, 2001;
7. a health advisory notice dated September 6, 2001, from Wishard Memorial Hospital;
8. a receipt for issuance of an identification card on June 9, 2000;
9. letters from SBC Ameritech dated September 1, 2001 and July 10, 2002 respectively, regarding the applicant's telephone calling plan;

10. billing summaries from IPL gas and electric company in Indianapolis, Indiana, dated October 16, 2001 and November 7, 2001, respectively; and,
11. an electricity bill dated November 24, 2003, from IPL of Indianapolis, Indiana.

It is concluded that the applicant has submitted sufficient evidence to establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. He has, therefore, established that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the applicant has overcome this ground for the denial of the application.

The second issue in this proceeding is whether the applicant has established his eligibility for late registration.

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 CIS on May 30, 2003.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. 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).

As stated above, the applicant was requested on July 11, 2003, to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant failed to respond to the notice.

The director determined that the applicant had failed to establish he was eligible for late registration.

On appeal, the applicant states that he failed to file his Form I-821 during the initial registration period due to "lack of information." However, he does not provide any evidence to establish his eligibility for late registration.

On appeal, the applicant submitted evidence of continuous residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for Temporary Protected Status will be affirmed.

An alien applying for temporary protected status 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.