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U.S. Citizenship
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FILE:  Office: NEBRASKA SERVICE CENTER Date:

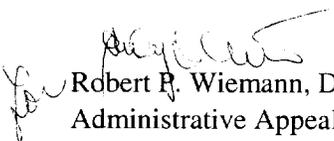
IN RE: Applicant: 

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 R. 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 establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he has proof of being in the United States since 1998 and that he qualifies for late registration.

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 conditions 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 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.

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. 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 period.

The first issue in this proceeding is whether the applicant is eligible 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 on June 30, 2003.

The record also reveals that the applicant filed an initial application for TPS on May 30, 2000, after the initial registration period had closed. That application was denied on February 2, 2001, for failure to respond to a request for evidence to establish his eligibility for TPS. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed a subsequent Form I-821 on June 30, 2003. Since the initial application was denied on February 2, 2001, the subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as a late registration.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. See 8 C.F.R. § 244.2(g).

On August 7, 2003, the applicant was provided the opportunity 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 nationality and identity, his residence in the United States since December 30, 1998, and his physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant failed to respond to the request. Therefore, the director denied the application.

On appeal, the applicant states that he received the request for additional information late, but that he feels that he has filled two of the conditions established to qualify for late registration. According to the applicant, he entered the United States in June 1998 and was apprehended at the border. He states that he was returned to Mexico but he returned to the United States the next day. The applicant's apprehension at the border does not provide him with any status in which he could qualify for late registration. Moreover, 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.

The second 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 from January 5, 1999 to the date of filing the application.

As stated above, the applicant was requested on August 7, 2003, to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant failed to respond to the request. On appeal, the applicant submitted the following documentation:

1. Copies of an airline ticket purchase receipt and airline passenger receipt dated September 14, 1998.
2. Copy of a letter from [REDACTED]
3. Copies of receipts dated May 13, 1999, July 28, 1999, September 27, 1999, December 20, 1999, February 22, 2000 and May 10, 2000.
4. Copies of money order receipts dated May 15, 2000 and February 27, 2001.
5. Copies of pay statements dated October 16, 1998, December 21, 1998, August 4, 1999, August 10, 1999, September 22, 1999, December 8, 1999.

The applicant also resubmitted evidence previously provided.

The airline ticket receipts and passenger receipts show the applicant was present in the United States on that date, but fail to establish the applicant's continuous residence or continuous physical presence during the qualifying period. In his statement, [REDACTED] states that the applicant has been a member of his parish since October 1998. However, this letter has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he claims knowledge. In addition, the statement is not attested to and is dated October 25, 2000; therefore, it does not establish the applicant's continuous residence and continuous physical presence during the qualifying period.

The receipts are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. The money order receipts indicate the applicant was present in the United States on May 15, 2000 at the earliest, and are therefore of no probative value in determining the applicant's qualifying continuous presence and continuous physical presence.

The pay statements appear to establish the applicant's qualifying residence in the United States since December 30, 1998. The applicant, however, has furnished insufficient evidence to establish his continuous physical presence in the United States from January 5, 1999 to the filing date of the application. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for temporary protected status on this ground will also 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.