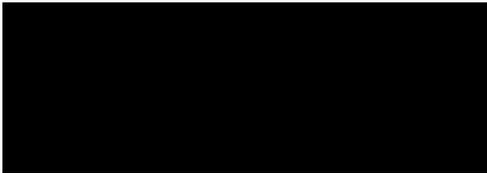




U.S. Citizenship  
and Immigration  
Services

MI



FILE:



Office: TEXAS 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 P. Wiemann*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas 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 continuous physical presence in the United States during the requisite periods.

On appeal, the applicant states that he has been living in the United States since 1998, and seeks an opportunity to be legally in the United States and to have a better job. The applicant does not submit any additional evidence on appeal.

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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS), on May 8, 2003.

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 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 is eligible for late registration.

The record of proceedings confirms that the applicant filed his initial 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).

On June 2, 2003, the applicant was requested 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 qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided documentation relating only to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on September 29, 2003.

On appeal, the applicant did not address this issue raised by the director.

The record includes evidence previously submitted by the applicant in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his application for Temporary Protected Status within the initial registration period. It is noted that on the Form I-765, Application for Employment Authorization, and on the Form I-821, Application for Temporary Protected Status, the applicant indicated that he entered the United States as a "visitor." The applicant, however, presented no evidence to substantiate that he had been granted any type of nonimmigrant status. 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 conclusion that the applicant had failed to establish his eligibility for late registration 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 since January 5, 1999.

The applicant submitted the following documentation with his initial application:

1. A photocopy of the biographic pages of his Honduras passport, issued in Honduras on June 23, 2000;
2. A photocopy of his birth certificate, with English translation;
3. Western Union receipts dated July 16, 2003, and July 31, 2003;
4. Ficohsa Express wire-transfer receipts dated December 10, 200[illegible], January 14, 2003, and February 25, 200[illegible];
5. Estrella Insurance Payment Receipts dated "5/31/03" and "7/7/03;"
6. A Toyota parts receipt dated June 11, 2002;
7. An Internal Revenue Service (IRS) Form W-7(SP), application for a personal taxpayer identification number, dated April 29, 2003, and response dated June 10, 2003;
8. A State of Florida vehicle title dated 5/25/2001;

9. A Direct TV billing statement dated July 1, 2003;
10. A State Farm Insurance Companies, Winter Haven, Florida, automobile policy dated December 27, 2002; and,
11. A River Body Shop, Miami, Florida, repair receipt dated February 20, 2002.

As stated above, the applicant was requested on June 2, 2003, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In response, the applicant submitted the following documentation:

1. A statement dated August 15, 2003, in which the applicant states that he does not have the required evidence for the period of January 5, 1999 to January 5, 2000, because he had no identification, no authorization to work and could not obtain a social security number;
2. A photocopy of a letter dated January 22, 2003, addressed to [REDACTED] Director, CIS, supporting the extension of TPS for Honduran nationals; and,
3. A waiver signed by the applicant on August 15, 2003, authorizing CIS to release information about his application for TPS to the Embassy of Honduras.

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

On appeal, the applicant reasserts that he has lived in the United States since 1998. He does not submit any additional evidence on appeal.

It is noted that the earliest date that appears on the evidence submitted by the applicant is that on the State of Florida vehicle title dated May 25, 2001. The applicant has submitted evidence from this date forward, but has not included evidence for the years prior to May 2001. It is also noted that the biographic page of the applicant's Honduras passport reflects that it was issued to him in Honduras on June 23, 2000. The applicant has not offered an explanation as to how he obtained this passport in Honduras in 2000, after his stated date of entry into the United States on December 25, 1998. It is further noted that the applicant indicated on his application that he entered the United States as a visitor. The applicant did not, however, provide a photocopy of his I-94, Arrival and Departure Record, or the entry stamps in his passport.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from December 30, 1998, to May 25, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). 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.