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FILE: 
[SRC 04 004 50663]

Office: TEXAS SERVICE CENTER Date: **AUG 10 2005**

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 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 also determined that the applicant failed to provide photo identification and certified copies of the final disposition of his arrest. The director, therefore, denied the application.

On appeal, the applicant states that he entered the United States in 1998, and requests that his case be reopened and reconsidered.

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.

The term *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 term *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 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 by the Secretary of the Department of Homeland Security, with the latest extension granted until July 5, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed his initial TPS application on September 22, 2003.

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 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 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 is eligible for late registration.

The record of proceeding 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 from January 5, 1999 through August 20, 1999, he fell within one of 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. 8 C.F.R. § 244.2(g).

On January 20, 2004, 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 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. In addition, the applicant was

requested to provide a certified copy of the final court disposition for an August 19, 1992 arrest for shoplifting in Hampton, Virginia.

The applicant, in response, provided evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. The applicant also provided a Public Information request to Waco Police Department. The applicant did not present any evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he entered the United States in 1998 and requests that his case be reconsidered. According to the applicant, he has provided all of the evidence he has. The applicant does submit evidence that he was a non-immigrant crewmember (C-1/D), but this, alone does not qualify him as eligible for late registration. 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 failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are 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. It is noted that the record contains a copy of a C1/D Visa issued on November 20, 1996 with an expiry date of November 20, 1997, that bears the applicant's photo. That visa indicates the applicant was admitted in Miami, Florida on April 18, 1997, and is stamped "cancelled without prejudice." In addition, the applicant was asked to provide photo identification as well as a certified copy of the final court disposition for his arrest.

As stated above, the applicant was requested on January 20, 2004, to submit photo identification, a certified copy of the final court disposition of his arrest, as well as evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. A copy of a Public Information Request to Waco Police Department dated February 3, 2004.
2. A copy of a TXU utility bill dated December 6, 1999 and copies of TXU Billing Summaries indicating due dates of January 8, 1999 and November 6, 1999 respectively.
3. A copy of a Verizon bill with a due date of August 14, 1999.

According to a Federal Bureau of Investigations (FBI) report, the applicant was arrested in Hampton, Virginia, on August 19, 1992, for "shoplifting." In response to the notice of intent to deny, the applicant provided a document from the Waco, Texas Police Department. The applicant was specifically requested to provide a **certified copy of the final court disposition** of his arrest, which the applicant failed to provide. Furthermore, the police document is from Waco, Texas, and the applicant was clearly instructed to provide evidence regarding his Hampton, Virginia arrest. Consequently, the police department document is of no probative value. One of the TXU billing summaries is dated January 8, 1999, and is the earliest date presented as evidence of the applicant's presence in the United States. This is subsequent to the dates required to establish entry, continuous residence and continuous physical presence during the qualifying period. Therefore, the remaining evidence is also of little or no probative value. The director, therefore, concluded that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The

director also determined that the applicant had failed to provide photo identification as well as a certified copy of the final court disposition of his arrest. Consequently, the director denied the application.

On appeal, the applicant failed to provide any additional evidence.

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 and January 30, 1998. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). He has also failed to provide the requested certified copy of the final court disposition of his arrest. Consequently, the director's decision to deny the application for temporary protected status on these grounds 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.