



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

MM

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 12 2005**

[WAC 04 110 53052]

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

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 had failed to establish continuous residence in the United States since December 30, 1998.

On appeal, the applicant states, "I am a derivative TPS from my father [REDACTED]"

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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.

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.

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.

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 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 through August 20, 1999. The record shows that the applicant filed his TPS application on March 5, 2004.

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).

To establish that he was eligible for late registration, the applicant provided with his application a copy of an employment authorization card issued to [REDACTED] indicating that [REDACTED] was approved TPS.

The director determined that the applicant had failed to submit any evidence to establish that he had continuously resided in the United States since December 30, 1998, and denied the application on July 27, 2004.

The applicant, on appeal, asserts that "he is a derivative TPS from his father." However, the applicant neither addressed nor submitted evidence of his residence in the United States.

While regulations may allow children of aliens who are TPS-eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements for eligibility for TPS. The applicant, in this case, failed to establish that [REDACTED] is, in fact, his father. Furthermore, the applicant has failed to submit his birth certificate and his passport and/or national identity document to establish his nationality and identity.

It is noted that the Form I-821, Application for Temporary Protected Status, indicates that the applicant's date of entry into the United States was "12-28-2003." Additionally, Mr. [REDACTED] re-registration ("Part 3,

Information about your spouse and children"), signed on May 6, 2002, listed the applicant as one of his children, and that the applicant was residing in Honduras at that time.

Based on the applicant's claimed entry into the United States on December 28, 2003, the applicant, therefore, could not have met the requirements that he has continuously resided in the United States since December 30, 1998, and has been continuously physically present since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for this reason 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.