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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER Date: AUG 26 2005
[EAC 03 204 51593]

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 qualifies for late registration in that he is the child of an alien currently eligible to be a TPS registrant.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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.

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 period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999.¹ The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on June 19, 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.

¹ It is noted that the applicant filed a prior TPS application with the Vermont Service Center on July 6, 2001. The Director of the Vermont Service Center denied that application on April 17, 2003 due to abandonment.

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 fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On September 15, 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. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on January 20, 2004. On appeal, the applicant claims that his mother has been approved for TPS, and as her child, he qualifies for late registration. As evidence, the applicant submitted a copy of his mother's TPS approval notice.

The evidence shows that the applicant's mother was approved for TPS on July 14, 2003. The evidence also shows that the applicant was born September 12, 1978. The requisite initial registration period for Hondurans is January 5, 1999, through August 20, 1999. The applicant was 20 years old during the requisite initial registration period, and therefore, qualifies for late registration under the regulation. Consequently, the director's decision to deny the application for temporary protected status on this issue will be overturned.

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.

As stated above, the applicant was requested on September 15, 2003 to submit 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 Florida driver's license containing an undistinguishable photograph;
2. Copies of MoneyGram receipts dated May and August of 1998; April, June, and December of 1999; and 2000, and bearing the applicant's name;
3. Copies of Western Union receipts dated January, February, March, April, July, and September of 1999 and bearing the applicant's name;
4. Copies of utility and hospital bills dated December of 1999, 2000, 2001, and 2002 and bearing the applicant's name;
5. A photo copy of a New York State driver license issued September 12, 2001 and bearing the applicant's name;
6. Copies of pay statements dated 2000, 2001, 2002, and 2003 and bearing the applicant's name; and,
7. Copies of correspondence bearing the applicant's name and dated 2000, 2002.

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 asserts his claim of eligibility for TPS.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. Although the applicant lists January 13, 1996 as his last date of entry into the United States, service records show that the applicant was deported from the United States on August 14, 1998. The evidence shows that the applicant's mother listed him as her child residing in Honduras in her TPS application filed June 24, 1999. The money receipts submitted as evidence appear to be altered (Nos. 2 and 3 above). Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). All other evidence submitted by the applicant fails to demonstrate that he has continuously resided in the United States since December 30, 1998, or that he has maintained continuous physical presence in the United States since January 5, 1999.

The applicant has 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 TPS on these grounds will be affirmed.

An alien applying for TPS 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.