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U.S. Citizenship
and Immigration
Services

MI



FILE:



Office: VERMONT SERVICE CENTER

Date: JAN 13 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:



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, Vermont 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 applying for 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.

On appeal, counsel for the applicant states that the applicant is eligible for TPS as the child of an alien who has been granted TPS. Counsel indicates that a brief and/or additional evidence would be submitted within 60 days. To date, no brief or additional evidence has been received. Therefore, the record will be considered complete.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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.

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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on July 7, 2003.

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).

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 record contains the following evidence:

1. an English translation of a Honduran birth certificate indicating that [REDACTED] was born in San Pedro Sula, Honduras, on December 3, 1996, to [REDACTED] and [REDACTED]
2. an Employment Authorization Card valid from July 6, 2003 to January 5, 2005, indicating that [REDACTED] a Honduran citizen with CIS record number [REDACTED] has been granted TPS;
3. a social security card valid for work authorization only issued to [REDACTED]
4. an Employment Authorization Card valid from July 5, 2003 to January 5, 2005 indicating that [REDACTED] a Honduran citizen with CIS record number [REDACTED] has been granted TPS;
5. a social security card valid for work authorization only issued to [REDACTED] and,

6. a letter dated July 2, 2003, from [REDACTED] stating that they are the applicant's parents.

On August 13, 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 record does not contain a response from the applicant.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on November 14, 2003.

On appeal, counsel asserts that the applicant is eligible for late initial registration as the son of an alien who has been granted TPS. However, counsel does not submit any additional evidence to corroborate her assertion. The record contains evidence indicating that [REDACTED] and [REDACTED] are both Honduran citizens who have been granted TPS; however, the record does not contain sufficient evidence to establish that they are, in fact, the applicant's parents. The record contains an English translation of a Honduran birth certificate indicating that [REDACTED] and [REDACTED] are the parents of [REDACTED] but the original Honduran birth certificate has not been submitted for incorporation into the record. Therefore, this translation is not sufficient to establish that the applicant is the child of aliens who have been granted TPS.

The applicant has not submitted sufficient evidence to establish that he has met any of the other 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.

Beyond the decision of the director, it is noted that the applicant indicates on the Form I-821, Application for Temporary Protected Status, that he did not enter the United States until January 5, 1999. Therefore, the applicant cannot establish continuous residence in the United States since December 30, 1998. Additionally, the applicant has not provided sufficient evidence to continuous physical presence in the United States since January 5, 1999. The applicant has also failed to provide sufficient evidence to establish identity and nationality. Therefore, the application also may not be approved for these reasons.

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.