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U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
[LIN 03 196 51433]

Office: NEBRASKA SERVICE CENTER

Date:

JUL 01 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.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 had been continuously physically present in the United States since January 5, 1999; and was eligible for late registration. The director also found that the applicant failed to present sufficient evidence of his identity. The director, therefore, denied the application.

On appeal, the applicant states that he has lived in the United States since October 28, 1998, and he has submitted evidence from 1999 to the present time. The applicant also submits additional evidence in an attempt to establish his continuous residence and physical presence in the United States during the qualifying period.

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.

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.

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 to August 20, 1999. The record shows that the applicant filed this application for TPS on June 3, 2003.

It is noted that the applicant did file a previous application for TPS on July 2, 2002. However, that application was denied on January 25, 2003, because the applicant failed to establish he was eligible for late registration, and because he failed to present sufficient evidence of his continuous residence and continuous physical presence. There is no evidence in the record that the applicant appealed the director's decision to deny.

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 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. See 8 C.F.R. § 244.2(g).

On July 21, 2003, 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 continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States from January 5, 1999, to the date of filing the application. The applicant, in response, provided evidence of his nationality and identity, and evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. 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 on October 28, 1998. According to the applicant, the evidence he has provided has been misinterpreted. The applicant also provides additional evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. 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 issue in this proceeding is whether the applicant has established his continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on July 23, 2003, to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant was also requested to provide proof of his identity. In response, the applicant resubmitted evidence that he had previously provided in support of his initial application. The applicant submitted the following documentation:

1. A personal statement.
2. A copy of the applicant's marriage certificate dated April 7, 2003.
3. Copies of medical receipts dated October 28, 2002 and May 20, 2003.
4. A copy of an application for the Insurance Company of America, of an unspecified location, dated March 1, 2001.
5. Copies of receipts from [REDACTED] Joliet, Illinois, dated February 28, 2001 and April 11, 2001 and [REDACTED] Inc., Lockport, Illinois, dated February 10, 1999.
6. Copies of a driver license application dated June 25, 2001; a State of Illinois Vehicle Identification Card dated June 25, 2001; and, an Alamo Insurance Identification Card dated January 3, 2001.
7. A copy of a money transfer receipt dated August 6, 2001.
8. A copy of the photo page of the applicant's passport.
9. Copies of letters from [REDACTED] and [REDACTED].
10. Copies of two hand-written generic rent receipts for periods from November 1, 1998 to December 1, 1998 and December 1, 1998 to January 1, 1999.

11. A copy of a U.S. Postal Service Express mail receipt with an indecipherable date.

The director determined that the evidence shows gaps in the applicant's residence from January 5, 1999 to February 28, 2001, and from December 2001 to March 28, 2003. The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant furnishes:

12. A copy of a hand written receipt from AmeriMex dated November 23, 1998.
13. A copy of a money transfer receipt dated April 26, 1999.
14. A copy of a letter from [REDACTED]
15. A copy of an U.S. Postal Service Express mail receipt dated July 1, 2002.

The evidence, other than the rent receipts and the statements from [REDACTED] and [REDACTED] indicates the applicant was present in the United States on February 1, 1999 and thereafter. In response to the notice, the applicant stated that he came to the United States in October 1998, and that he had submitted the evidence requested. The hand-written generic rent receipts indicate the applicant's presence in the United States prior to December 30, 1998. However, the receipts are not supported by any corroborative evidence. [REDACTED] claims that the applicant worked for him since November 1998. However, the statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. The statement also fails to provide the exact periods of the applicant's employment and the applicant's duties of employment. In his statement, Mr. [REDACTED] asserts that the applicant worked for his company from November 28, 1998 to August 30, 2001. However, this statement also has little evidentiary weight or probative value because it does not provide the address where the applicant resided during the period of his employment. Moreover, neither statement is supported by any corroborative evidence. Furthermore, the applicant is claiming to have worked for both individuals during the same period of time; this raises the question of the credibility and reliability of each claim. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided.

On appeal, the receipt from [REDACTED] indicates the applicant was present in the United States on November 23, 1998. Similarly to the hand written receipts above, this receipt is not supported by any corroborative evidence. In the letter from Mr. [REDACTED] he states that the applicant brought a car from him on January 5, 1999. However, this statement also lacks supporting corroborative evidence and is therefore of little or no probative value. The remaining evidence provided by the applicant indicates his presence in the United States on April 26, 1999 and July 1, 2002.

The applicant has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for temporary protected status on this ground will also be affirmed.

Beyond the director's decision, it is noted that the applicant provided two copies of the first page of his passport in an attempt to establish his nationality and his identification. However, each copy has a different issue date, with no further explanation of this discrepancy. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). It is also noted that although the applicant submitted a translation of his birth certificate, that no original birth certificate is included in the record. Consequently, the applicant has not established his nationality and identity.

In addition, the applicant has not established his continuous residence in the United States, as required by 8 C.F.R. § 244.2(c); therefore the application must also be denied for this reason.

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.