

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

ML

FILE:

[REDACTED]
[EAC 03 211 51382]

Office: Vermont Service Center

Date: JUN 14 2005

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:

[REDACTED]
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.


for 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 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 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, counsel, on behalf of the applicant, asserts the applicant's claim of eligibility for TPS and provides evidence in support of his claim.

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 § 244.3;
- (e) Is not ineligible under § 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.

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. 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 reveals that the applicant filed his initial application with the Citizenship and Immigration Services (CIS), on July 7, 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 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).

On November 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 applicant was also requested to submit evidence establishing his continuous residence in the United States as of December 30, 1998, and continuous physical presence in the United States from January 5, 1999, to the date of filing his application. The applicant did not respond to the director's request; therefore, the director determined that the applicant had failed to establish his eligibility for TPS and denied the application on November 24, 2003.

On appeal, counsel states that the evidence overwhelmingly shows that the applicant has resided in the United States prior to the regulatory time periods for Honduran TPS. Counsel also provides, on appeal, the following documentation in support of the applicant's eligibility for TPS: an affidavit dated March 1, 2004, from Mr. [REDACTED], who stated that he has known the applicant since July 1997; a letter dated March 5, 2004, from Mr. [REDACTED], who stated that the applicant had purchased items from [REDACTED] in Herndon, Virginia, and the applicant had received a credit line since January 25, 2000 to March 12, 2001; an unsigned letter dated June 26, 2003, from Father [REDACTED] Pastor of [REDACTED] Catholic Church in Sterling, Virginia, who stated that the applicant has been a participating member of his church, and that the applicant had arrived the United States on September 15, 1997; a copy of a letter dated March 5, 2004, from Mr. [REDACTED], a representative for Van Metre Dulles Court Apartments, who stated that the applicant had been a tenant from May 1, 2001 to May 2, 2003; two letters dated December 13, 2000 and April 21, 2001, from the Social Security Administration; a letter dated February 28, 2004, from Mr. [REDACTED] Owner of [REDACTED] in Brentwood, New York, who stated the applicant had been a client since September 1997; and a copy of the applicant's State of Maryland fishing license issued on May 3, 2003.

The first issue in this proceeding is whether the applicant is eligible for late registration.

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 was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/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).

Although counsel, on appeal, submits evidence in an attempt to establish the applicant's continuous residence and continuous physical presence in the United States during the requisite time periods, a review of the record of proceedings reflects that 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 decision to deny the application for TPS will be affirmed.

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, to the date of filing his application.

Although Mr. [REDACTED] states that he has known the applicant since July 1997, he does not indicate whether their acquaintance was in the United States or elsewhere. The letter from Father [REDACTED] 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)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor is the letter signed. The letters from Mr. [REDACTED] and Mr. [REDACTED] indicate that the applicant had made purchases from their establishments; however, it would be reasonable that the applicant would have corroborative evidence such as receipts for merchandise purchased and monthly installment payments as a matter of general business practices. The letter from Mr. [REDACTED] indicates dates of the applicant's residence which post-date the beginning of the requisite time period for El Salvadoran TPS. In addition, the applicant's Maryland fishing license is dated well after the requisite time periods. Although the letters from the Social Security Administration may suggest that the applicant was in the United States during the years 1999 and 2000, these documents do not provide the actual dates of employment. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also 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.