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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
[LIN 03 213 50716]

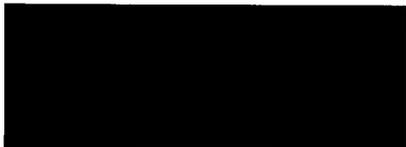
Office: Nebraska Service Center

Date: JUN 21 2005

IN RE: Applicant: [REDACTED]

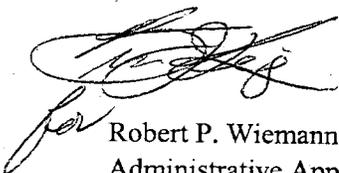
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, 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 denied the application because the applicant failed to establish he was eligible for late registration. The director also denied the application because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director denied the application because the applicant had failed to establish his identity.

On appeal, counsel, on behalf of the applicant, asserts his eligibility for TPS and submits 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.

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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 initial application with Citizenship and Immigration Services (CIS), on June 26, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she 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 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 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 August 21, 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 photo identification and a copy of his birth certificate or passport. In addition, the applicant was requested to submit evidence establishing 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 his application. In response, the applicant submitted some evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. The applicant also submitted a copy of his birth certificate from Honduras along with an English translation. The director determined that the applicant had failed to submit any evidence to establish his eligibility for TPS late registration. The director also determined that the applicant failed to submit sufficient evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In addition, the director concluded that the applicant failed to submit evidence of his identity. Therefore, the director denied the application on November 4, 2003. The director noted in her denial that the applicant did not submit sufficient documentary evidence for the time periods between January 1999 and February 2001, and October 2002 through May 2003. Also, the director noted in her decision that the evidence submitted by the applicant had been altered.

On appeal, counsel on behalf of the applicant, states that the applicant entered the United States in 1983 and has resided continuously since that time. Counsel also states that the applicant is the spouse of an alien currently eligible for Honduran TPS. Counsel further states that the applicant claims to be married to Ms. [REDACTED] whose application for TPS is also on appeal. In addition, counsel also provides evidence in an attempt to establish the applicant's continuous residence and continuous physical presence in the United States during the requisite time periods. Counsel also provided copies of the applicant's personal identification card from Honduras.

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 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 record of proceedings contains a copy of the applicant's marriage certificate along with an English translation. A review of the marriage certificate reflects multiple alterations and discrepancies in the information

found on the document as compared to the information provided by the applicant on his application for TPS, and found on his birth certificate. The record of proceedings contains a copy of the applicant's birth certificate along with an English translation which reflects that his personal identification number as [REDACTED]. In addition, the applicant had provided a copy of his Honduran personal identification card bearing his personal identification number as [REDACTED]. Upon examination of the marriage certificate submitted on appeal, the personal identification number of the groom is [REDACTED]. It is noted that it appears the personal identification number on his marriage license has also been altered to reflect "1958", the year of his birth. It is also noted that the name of the groom on the marriage certificate appears to have been altered to reflect the name of the applicant. Moreover, the applicant certified under penalty of perjury that he was single on his applications for temporary protected status and employment authorization. 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, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to explain why he repeatedly certified that he was single if he considered himself, now on appeal, to have been married during this time period. The documentation submitted by the applicant as well as the applicant's statements on his applications for temporary protected status and employment authorization contain numerous discrepancies. It appears the applicant is attempting to "create" his marriage to Ms. [REDACTED] in order to establish his eligibility for TPS late registration.

Notwithstanding the above discrepancies, Ms. [REDACTED] TPS application was denied on November 3, 2003; thus, she is not currently an eligible TPS registrant. As such, the applicant has failed to establish that he is eligible for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had 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 residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. On appeal, counsel provides documentation bearing the name of Ms. [REDACTED] and some documentation bearing the name of the applicant.

It is noted that the letter from [REDACTED] Company appears to have been altered as the original date has been changed to reflect an earlier date. In addition, it appears the spouse's name on the document has also been altered to reflect the applicant's name and date of birth. The document reflects that the applicant is 42 years of age; however, based on the date of the document (although altered), the applicant would have only been 40 years old. The director had already noted this alteration in her decision to deny the application as well. Also, the letter from DirecTV of Los Angeles, California appears to have been altered as the date and addressee on the letter appear to have been altered to reflect an earlier date and the applicant's name. The copies of a letter and an appointment card from the Adult Institute, in Prairieville, Louisiana also appear to have been altered. The appointment card indicates his appointment as "December 9, 1998," on a Monday. However, December 9, 1998 falls on a Wednesday of that week. The copy of a Bill of Sale for a 1991 Honda Civic also appears to have been altered to reflect an earlier date. It is noted that the copy of an auto insurance policy (Policy No. [REDACTED]) from [REDACTED] Company for the 1991 Honda reflects the name of Mr. [REDACTED] and Ms. [REDACTED]. In addition, an undated letter from [REDACTED] Company bearing the same policy number appears to have been altered as the name of the addressee has been changed to reflect the applicant's name [REDACTED]."

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). The applicant has failed to submit any objective evidence to explain or justify the numerous discrepancies in the documentation submitted in support of his eligibility for TPS. It is concluded that the applicant has not submitted sufficient credible evidence to establish his continuous residence in the United States since December 30, 1998, or his continuous physical presence in the United States since January 5, 1999. The applicant, has, therefore, 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 also be affirmed.

The third issue in this proceeding is whether the applicant has established his identity as a citizen or national of Honduras. On appeal, the applicant provides a copy of his Honduran personal identification card bearing his name Mr. [REDACTED] establishing his identity as an Honduran citizen. However, it is noted that the date of issuance of the card appears to have been altered and is illegible as well.

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.