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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[LIN 03 217 50548]

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: 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, 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 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 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 asserts his eligibility for TPS and submits additional 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 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, 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.

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 application with Citizenship and Immigration Services (CIS), on June 30, 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 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 to establish 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 date of entry into the United States prior to December 30, 1998; his continuous residence in the United States as of December 30, 1998; and his continuous physical presence in the United States since January 5, 1999. In response, the applicant submitted some evidence in an attempt to establish his continuous physical presence and continuous residence in the United States; however, he did not submit any evidence to establish his eligibility for late registration. The director, therefore, determined that the applicant had failed to establish he was eligible for late registration and denied the application on November 21, 2003. The director also determined that the applicant had failed to establish his date of entry into the United States prior to December 30, 1998; his continuous residence in the United States since December 30, 1998; and his continuous physical presence in the United States since January 5, 1999.

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

On appeal, the applicant states that he did not file for Honduran TPS because of many obstacles and lack of financial resources. The applicant submits, on appeal, additional evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status 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 decision to deny the application for TPS on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his date of entry into the United States prior to December 30, 1998; his continuous residence in the United States since December 30, 1998; and his continuous physical presence in the United States since January 5, 1999.

The applicant, on appeal, provides the following documentation: a medical report dated December 10, 1998 from the Lake County Health Department; an examination report dated November 20, 1998, from the Glen Flora Medical Clinic in Waukegan, Illinois; a copy of a MoneyGram money transfer receipt dated December 20, 1998; a copy of a letter dated June 23, 2003, from Mr. [REDACTED] General Superintendent for the Sanctified Church Iglesia Cristiana Amistad y Vida located in Louisville, Kentucky; copies of his IRS Form W-2, Wage and Tax Statements, for the years 1999 and 2002; copies of his earnings statements reflecting employment dates from May 24, 1999 to July 2, 1999; copies of earnings statements from U.S. Service Systems, Incorporated reflecting pay dates of August 13, 2001, August 26, 2002, and April 21, 2003.

The church letter from Mr. [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, Mr. [REDACTED] does not explain

the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. It is further noted the location of his church is over 350 miles from the applicant's address in Waukegan, Illinois. The tax documents indicate that the applicant was in the United States during the years 1999 and 2002. However, these documents do not provide the actual dates of employment. The burden is on the applicant to establish his continuous residence in the United States since December 30, 1998. The copies of his earnings statements post-date the requisite time period for continuous residence by five months. The record of proceedings also contains a copy of an employment letter dated June 10, 2002, from Mr. [REDACTED], President and Manager for Quantum Cargo Services, Incorporated, who stated that the applicant has been a part-time employee of his company since December 10, 1998. The employment letter from Mr. [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)(i). Specifically, it does not provide the address where the applicant resided during the period of his employment. The applicant claims to have lived in the United States since October 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these statements.

In addition, the photocopied MoneyGram receipt and the medical examination reports from the Lake County Health Department and the Glen Flora Medical Clinic appear to have been altered as the original date and name seem to have been covered-over and the applicant's name has been inserted in its place. 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 apparent alteration of the above documents. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy 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 this ground 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.