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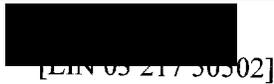
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

JUN 23 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.

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 (AAO) 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 that he was eligible for late initial registration. The director also found that the applicant had failed to establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

On appeal, the applicant submits a statement and additional evidence.

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 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.

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. 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 application with Citizenship and Immigration Services (CIS) on June 30, 2003.

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 first issue in this proceeding is whether the applicant has established continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

The applicant initially submitted the following evidence in an attempt to establish his qualifying continuous residence and physical presence in the United States:

1. a photocopy of the biographic pages of his Honduran passport issued in Chicago, Illinois, on March 21, 2002;
2. a photocopy of an Illinois marriage license indicating that the applicant and [REDACTED] were married in Waukegan, Illinois, on February 9, 2002;
3. a letter dated November 27, 2002, from [REDACTED] and President of Parkway Upholstering and Interiors in Chicago, Illinois, stating that the applicant worked for his company as an upholstery trainee from October 20, 1998 to July 30, 1999;
4. a photocopy of a World Vision receipt dated February 12, 2002, acknowledging a donation from the applicant and his wife;
5. pay statements from Citywide Building Maintenance, city and state unknown, reflecting work performed by [REDACTED] Social Security number [REDACTED] dated: June 5, 2000; June 19, 2000; July 31, 2000; ; January 1, 2001; February 12, 2001; March 26, 2001; and November 29, 2002;
6. photocopies of pay statements from EBM, Inc., city and state unknown, reflecting work performed by [REDACTED] Social Security Number [REDACTED] dated: November 29, 2002; January 10, 2003; January 24, 2003; and February 7, 2003;
7. photocopies of pay statements from Team Management Services, Inc., city and state unknown, reflecting work performed by [REDACTED] Social Security Number [REDACTED] dated: August 18, 2002; March 7, 2003; and January 10, 2003; and,
8. a photocopy of an Illinois Certificate of Title of Vehicle issued on November 26, 2002;

On August 21, 2003, the applicant was requested to submit additional evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and evidence to establish his eligibility for late initial registration. In response, the applicant submitted the following:

9. photocopies of pay statements reflecting work performed by [REDACTED] Social Security Number [REDACTED] for Team Management, Inc., city and state unknown, dated: April 14, 2002; May 26, 2002; June 9, 2002; and July 21, 2002;

10. photocopies of pay statements reflecting work performed by [REDACTED] Social Security Number [REDACTED] for EBM, Inc., city and state unknown, dated: March 7, 2003 and April 18, 2003;
11. photocopies of pay statements reflecting work performed by [REDACTED] Social Security number [REDACTED] for Citywide Building Maintenance, city and state unknown, dated: July 17, 2000; August 28, 2000; September 11, 2000; September 25, 2000; October 9, 2000; December 4, 2000; January 29, 2001; and February 26, 2001; and,
12. a letter dated September 16, 2001, from [REDACTED], Operations Manager of Pan-American Bookstore in Chicago, Illinois, stating that the applicant has worked for his store as a part-time packer and maintenance helper since September 27, 1998, along with photocopies of pay statements from Pan American Bookstore dated: December 12, 1998; January 12, 1999; and March 11, 1999.

The director concluded that the applicant had failed to establish his qualifying continuous residence and physical presence in the United States during the requisite periods and denied the application on November 20, 2003.

On appeal, the applicant states that he has lived in the United States since September 15, 1998, and that he has never left the United States since he arrived in this country. He provides the following relevant evidence:

13. a letter dated December 17, 2003, from [REDACTED] Owner and President of Ken's Tile and Marble, Inc., in Chicago, Illinois, stating that the applicant worked for his company as a private contractor in the following months: March 1999; June 1999; August 1999; November 1999; February 2000; March 2000; May 2001; October 2001; December 2001; February 2002; June 2002; and February 2003; and,
14. a letter dated December 16, 2003, from [REDACTED] Associate Pastor of The United Christian Church of Waukegan, Waukegan, Illinois, stating that the applicant and his family have attended his church since March 2002.

In view of the foregoing, it is concluded that the applicant has submitted sufficient evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the applicant has overcome this ground for the denial of the petition.

The second issue in this proceeding is whether the applicant has established that he is eligible for late initial registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period for Hondurans 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).

On August 21, 2003, the applicant was requested to submit evidence to establish his eligibility for late initial registration. In response, the applicant submitted evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods, but he failed to provide any evidence to establish his eligibility for late initial registration.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on November 20, 2003.

On appeal, the applicant submits additional evidence of continuous residence and continuous physical presence, but he does not submit any evidence to establish his eligibility 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 temporary protected status on this basis will be affirmed.

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.