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**U.S. Citizenship  
and Immigration  
Services**

M1



FILE: [REDACTED]  
[LIN 03213 50781]

Office: Nebraska Service Center

Date: JUN 24 2005

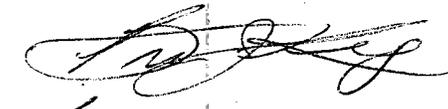
IN RE: Applicant: [REDACTED]

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.

  
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 claims to be 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 continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director found that the applicant had failed to establish his identity.

On appeal, the applicant's mother, on behalf of the applicant, asserts the applicant's claim of 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.

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.

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 evidence of his entry into the United States as of 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. In addition, the applicant was requested to submit a copy of his current photo identification document. In response, the applicant's mother, Ms. [REDACTED] stated that her son does not have a passport from Honduras and that his birth certificate does not have a fingerprint or his photo. The applicant also provided copies of his birth certificate along with an English translation, as well as evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant, however, did not submit any evidence in support of his eligibility for TPS late registration. Therefore, the director determined that the applicant had failed to establish he was eligible for late registration. The director also determined that the applicant failed 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 denied the application because the applicant failed to submit evidence of his identity. It is noted that the director stated in his denial that the applicant did not submit sufficient evidence for the time periods: March 1999 to December 1999; February 2000 through May 2001; July 2001 to August 2002; and October 2002 to June 2003.

On appeal, the applicant's mother, Ms. [REDACTED] states that she did not provide her son's passport because she was not able to travel to the nearest Honduran Consulate in Arizona. Ms. [REDACTED] also states that she was granted temporary protected status on September 13, 1999, under [REDACTED]. In addition, Ms. [REDACTED] provides the following documentation in support of her son's eligibility for TPS: a copy of the

applicant's Honduran passport issued by the Honduran Consulate in Phoenix, Arizona; a letter dated December 1, 2003, from Ms. [REDACTED] Secretary of [REDACTED] Elementary School, in Denver, Colorado, who stated that the applicant had attended McGlone Elementary School from April 15, 2003 to June 12, 2003; a Notice of Withdrawal from [REDACTED] School in Northglenn, Colorado, indicating the applicant's entry date of September 27, 2002, and his withdraw date of February 28, 2003; an Attendance Summary dated December 1, 2003, from [REDACTED] Elementary, reflecting that the applicant was enrolled in that school for 89 days between the dates of August 25, 2001 and June 4, 2003; and a copy of the applicant's kindergarten diploma issued on June 6, 2003.

The first issue in this proceeding is whether the applicant has established his qualifying continuous residence and continuous physical presence in the United States. A review of the evidence submitted reflects that there is a significant gap of one and one-half years in the evidence, between February 16, 1999 (the date reflected on his examination with the Family Health Center), and August 25, 2001 (the date as reflected on the Attendance Summary from [REDACTED] Elementary). It is also noted that the Attendance Summary from [REDACTED] Elementary School reflects a range of almost two years from August 25, 2001 to June 4, 2003, while the total number of days enrolled for the applicant in that school is 89 days, less than a complete school year. In addition, according to Notice of Withdrawal, the applicant began schooling at [REDACTED] Star Schools on September 27, 2002. 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 application will be denied for these reasons.

The second issue in this proceeding is whether the applicant is eligible for late registration. A review of the CIS' electronic systems reflects that the applicant's mother, Ms. [REDACTED] is an eligible TPS registrant. As such, the applicant has established that he has met one of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). However, in addition to meeting the criteria for late registration, the applicant must also 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, to the date of filing his application. As described above, the applicant has not met the continuous residence and continuous physical presence eligibility requirements for TPS. Therefore, the director's decision to deny the application for TPS late registration will be affirmed.

8 C.F.R. § 244.9, states that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

(a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.

(1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of: (Amended 11/16/98; 63 FR 63593)

(i) Passport;

(ii) Birth certificate accompanied by photo identification;  
and/or

(iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The third issue in these proceedings regards the applicant's identity. On appeal, the applicant provides copies of his passport issued by the Honduran Consulate in Phoenix, Arizona. Upon closer examination of his passport, it is noted that the applicant's birth date is reflected as December 2, 1997. However, according to the applicant's birth certificate contained in the record of proceedings, the applicant's birth date is December 2, 1996. As such, there is a discrepancy in the applicant's birth year. The applicant has not provided an explanation of this noted discrepancy in his identity document. Thus, the director's decision to deny the applicant for this reason 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.