

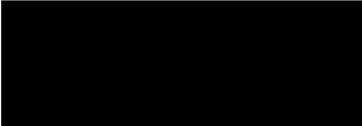
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

MI



FILE: [REDACTED]
[SRC 03 162 54218]

Office: TEXAS SERVICE CENTER

Date: JUN 27 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 that 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 states he has been living in the United States since February 1998 to the present time but that he does not have any documentation because his mother supports him and provides for his room and board. The applicant further states that he qualifies as a late registrant because he is the son of a TPS current registrant. He indicates that he is enclosing an affidavit signed by his mother and indicates that he has been living with her "since that date to the present time."

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 of a 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 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.

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.

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 in the United States 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 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 Citizenship and Immigration Services (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).

On June 2, 2003, the applicant was requested to submit evidence establishing his continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. The applicant was also requested to submit a copy of his "picture ID." In response, the applicant's mother provided the following documentation:

1. A copy of her son's birth certificate and English translation.
2. A copy of her TPS approval notice dated September 30, 1999.
3. Copies of her TPS employment authorization cards.
4. A copy of the applicant's Republic of Honduras passport.
5. Copies of seven of her bills, three of her receipts and his sister's baptism certificate.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on January 21, 2004.

On appeal, the applicant reasserts his claim and submits the following additional documentation:

1. An affidavit from his mother, [REDACTED] in which she asserts that her son is eligible to apply for late initial registration because he is a child of an alien currently eligible to be a TPS registrant. She further states that the applicant was living with her sister since 1998 to 2001 in Boston, but now she does not have any contact with her sister, as she does not know where her sister is now living. The affiant further states that her sister [REDACTED] was helping her with her son because she is a single mother with two minor children and that for that reason, she does not have any school records of her minor son. The affiant indicates that she provided room and board to her minor son at all times and that she is witness to the fact that he came to the United States "since" 1998 to the present time.
2. A copy of a "miscellaneous laboratory slip" for a pregnancy test for his mother from the Dade County Health Department for her appointment on March 5, 1998.

As indicated above, the record contains a copy of the applicant's Republic of Honduras passport. The passport was issued to him in Honduras on October 10, 2001. Therefore, he could not have been in continuous residence in the United States since December 30, 1998 until October 10, 2001, the date his passport was issued to him abroad. Additionally, it is noted that the documentation listed all relate to the applicant's mother and his sister. The documents, without supporting evidence directly relating to the applicant, are not sufficient for the purpose of meeting the burden of proof in these proceedings. It is also determined that the applicant has submitted insufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the period from December 30, 1998, to May 20, 2003, the filing date of the application. He 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 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.