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

MI

OCT 04 2005

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

[LIN 03 213 50534]

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, 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 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 time periods.

On appeal, the applicant submits a brief statement.

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.

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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on June 26, 2003, more than three years and ten months after the initial registration period had expired.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants must 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).

In support of his initial TPS application, the applicant submitted the following documentation:

1. A photocopy of an abstract of his Honduran birth certificate, with English translation;
2. A photocopy of his Honduran national identity card, issued in Honduras on May 25, 1999;
3. A photocopy of an envelope addressed to him in Illinois, postmarked July 22, 2000;

4. Photocopies of RIA money transfer receipts, dated May 12, 2000; September 25, 2001; November 23, 2002; and, December 21, 2002; and,
5. Photocopies of earnings statements, dated June, July and August 1999; February 2000; January and September 2001; March 2002; and, June 2003.

On November 14, 2003, the director requested the applicant to submit evidence establishing his eligibility for late registration. The director also requested the applicant to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director's request was forwarded to the applicant at the address indicated on his initial application and on the instant appeal. The request was returned to the NSC as undeliverable.

The director determined that the applicant had failed to establish his eligibility for late registration, and had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on February 25, 2004.

On appeal, the applicant states that he has lived at the same address for over one year and never received the request for evidence. He also states that he believes he can supply more documentation if required, and requests a photocopy of the request that was returned as undeliverable.

It is concluded that the applicant has failed to overcome the director's decision. The record confirms that the applicant did not file his TPS application until after the initial registration period had expired. The applicant has submitted 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 Form I-821 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 Temporary Protected Status for this reason will be affirmed.

The applicant claims to have resided continuously in the United States from his date of entry on September 1, 1998, to the date of filing his TPS application on June 26, 2003. It is reasonable to expect that he would have a variety of evidence to support this claim. However, the documentation submitted by the applicant is dated June through August 1999; February and May 2000; January and September 2001; and March, November and December 2002. There are significant gaps in the documentation presented to establish the applicant's qualifying **continuous** residence in the United States during the approximate eighteen-month period from December 30, 1998, and **continuous** physical presence from January 5, 1999, to June 2003. Consequently, the director's decision to deny the application for Temporary Protected Status for these reasons will also be affirmed.

Furthermore, it is noted that the applicant's national identity card, containing his photograph and fingerprint, was issued in El Salvador more than eight months after his claimed date of entry into the United States. This discrepancy has not been explained and calls into question in the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any

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. (Comm. 1988).

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.