



U.S. Citizenship  
and Immigration  
Services



M1

FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: 07 20 08

[EAC 04 069 50504]

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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont 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 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 had failed to establish that he: (1) was eligible for late registration; (2) had continuously resided in the United States since December 30, 1998; and (3) had been continuously physically present from January 5, 1999, to the date of filing the application.

On appeal, the applicant submits a statement.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. 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 shows that the applicant filed his TPS application on January 8, 2004.

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 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 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).

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

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

In a notice of intent to deny dated February 11, 2004, 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 director determined that the applicant, in response, had failed to provide any evidence to establish that he was eligible for late registration and denied the application on March 10, 2004.

On appeal, the applicant states that he did not apply during the registration period because "people" told him not to send anything to CIS because he would get deported; also, he did not have the money to send his application because he did not have a steady job.

The applicant has failed to submit 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 TPS application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established continuous residence in the United States since December 30, 1998, and continuous physical presence from January 5, 1999, to the date of filing the application.

The applicant originally submitted with his TPS application the following documents:

1. Copies of his El Salvadoran birth certificate with English translation, his El Salvadoran identity card, and his passport issued in El Salvador on September 12, 1997.
2. A statement from [REDACTED] indicating that she has known the applicant since January 1999.
3. A statement from [REDACTED] indicating that he has known the applicant since August 1999.
4. A statement from [REDACTED] indicating that he has known the applicant since September 2000.
5. A statement from [REDACTED] indicating that he has known the applicant since 2001.

In a notice of intent to deny dated February 11, 2004, the applicant was requested to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States. He was advised that affidavits are of limited importance if not supported by other official documentation. In response, the applicant submitted:

6. Two Western Union receipts dated January 29, 2000 and June 23, 2000.
7. Nineteen "Gigante Express" receipts dated May 16, 2000 through May 20, 2001, inclusive.
8. Statements from [REDACTED] from [REDACTED] from [REDACTED] and from [REDACTED] indicating that they have known the applicant since 1999.

The director noted that the documents furnished addressed the applicant's residence and physical presence after July 2000; however, for the period of December 20, 1998 through July 2000, the applicant only has affidavits from people who claim to have known him for some time but do not attest to his residence and physical presence in the United States. The director, therefore, denied the application on March 10, 2004.

On appeal, the applicant asserts that he does not have any documents such as rent receipts or medical receipts; he only has friends and co-workers who know him and can attest to his residence in this country.

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 noted that none of the statements from the applicant's friends (detailed in Nos. 2, 3, 4, 5, and 8 above) were dated, attested to under penalty of perjury, listed their addresses and also the address where the applicant resides, and provided any details or specifics regarding the circumstances surrounding their acquaintanceship with the applicant.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided to establish the applicant's qualifying residence in the United States were not supported by any other corroborative evidence.

The remaining evidence (Nos. 6 and 7 above) only establishes the applicant's physical presence from January 2000 to May 2001. No documentary evidence was furnished to establish continuous residence since December

30, 1998, and continuous physical presence from January 5, 1999 to January 2000, and from May 2001 to the date he filed his application on January 8, 2004. The applicant claimed 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 his claim; however, no such evidence has been provided.

The applicant has failed to establish that he has met the criteria for continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will also be affirmed.

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.