



U.S. Citizenship
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Services

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FILE:



Office: TEXAS SERVICE CENTER

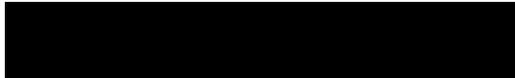
Date:

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[SRC 03 185 53628]

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, Texas 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.

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. 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 reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS), on June 19, 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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or

application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g).

On August 29, 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 establishing his qualifying continuous physical presence in the United States during the requisite period. In addition, the applicant was requested to submit photo identification, a birth certificate, and/or a national identity document from his country of origin, bearing a photograph and/or fingerprint. The applicant, in response, provided photocopies of the following documentation: his Honduran birth certificate issued in 1995, with English translation; his State of Texas Identification Card with an expiration date of January 24, 1997; money transfer receipts dated on "5-9-00", in September 2002, and in May and June of 2003; an insurance enrollment statement for the period of May through November 2001; domestic airline travel receipts between Los Angeles, California, Atlanta, Georgia, and Miami, Florida, dated September 23, 1999, February 10, 2000, and December 30, 2000; and, another copy of his Honduran passport issued in Honduras on August 9, 1991, bearing a distorted photograph and pages of travel stamps.

With his initial application, the applicant submitted an original notarized, undated letter from [REDACTED] attesting that the applicant worked as a handyman and lived with his family at an unspecified address "since 1997 1998 [sic] till today." The applicant also submitted photocopies of: a Honduran passport; a contract guaranty for residential electric service dated October 19, 1995; an electric bill for January through February 1997; and, a rental receipt dated in 1995.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 9, 2003.

On appeal, the applicant states that he applied on time and is attaching the postal service receipt to prove his date of registration. He states that he needs employment authorization in order to support his family. In support of the appeal, the applicant resubmits some of the documentation that had previously been entered into the record. He also submits an original United States Postal Service (USPS) receipt and delivery confirmation receipt both dated September 20, 2003, and an insurance enrollment statement for the period of May through November 1999.

The applicant submitted evidence in an attempt to establish his qualifying 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, Application for Temporary Protected Status, within the initial registration period. The applicant submitted a USPS receipt dated September 30, 2003, to prove that he responded to the director's request for additional evidence within the allotted timeframe. However, the director's denial refers to the applicant's failure to file his initial TPS application during the initial registration period, that for Hondurans was from January 5, 1999, through August 20, 1999. 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).

The records of CIS reflect that the applicant also has another record of proceedings under file number [REDACTED]. It is noted that this A-file contains a clearer copy of the applicant's passport, along with additional identification and some evidence of his previous travels here. This A-file record indicates that the applicant was placed in exclusion proceedings on February 4, 1995, and charged under the provisions of 212(a)(6)(C)(i) and

212(a)(7)(A)(i)(I). In a letter dated February 8, 1995, the Immigration and Naturalization Service Forensic Document Laboratory (INS/FDL) issued a statement that the submitted passport conformed in all respects to genuine reference passports on file in the INS/FDL Reference Library. A letter dated June 22, 1995, from the Consulate General of Honduras, Houston, Texas, confirmed that the applicant traveled to the United States on business, utilizing his United States non-immigrant B1/B2 visa that was valid through October 30, 2001. By Order of the Immigration Judge, Houston, Texas, the applicant was admitted to the United States as a non-immigrant B1/B2 visitor until August 26, 1995. Although the applicant held valid non-immigrant status through August 26, 1995, there is no evidence of record to indicate that the applicant remained in valid non-immigrant status beyond this date, or filed for TPS within 60 days of the termination or expiration of any status he may have held.

Consequently, the director's decision to deny the application for temporary protected status 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.