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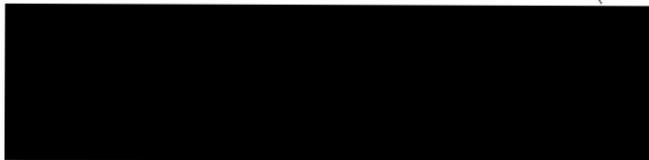
[WAC 05 146 74685]

Office: California Service Center

Date: **DEC 27 2006**

IN RE:

Applicant:



APPLICATION:

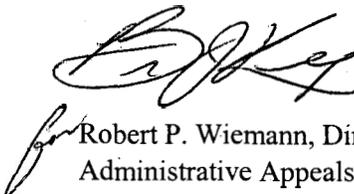
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, California 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 record reveals that the applicant filed a late initial TPS application on February 23, 2005 under CIS receipt number WAC 05 146 74685. The director denied that application on April 21, 2006, because the applicant failed to establish continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States, and eligibility for late initial registration. The director noted that a notice of intent to deny, issued by the director on February 17, 2006, requesting the applicant submit evidence, within 30 days, to establish eligibility for TPS; was mailed to the applicant's last known address and was not returned as undeliverable.

With his initial TPS application, the applicant submitted a photocopy of the biographic page of his Honduran passport, issued on February 24, 2004, and a Honduran national identification card, issued on September 7, 1998.

On appeal, the applicant states that he has been living in the United States from 1998, and he wants an opportunity to live with his family in the United States. With his appeal, in an attempt to establish his continuous residence in the United States, his continuous physical presence, and his eligibility for late initial registration for TPS, the applicant submits a photocopy of: his Honduran national identification card, issued on September 7, 1998; 2 earnings statements issued October 2005; 3 Western Union money transfer receipts, issued in 2004, and 2005; a generic receipt, dated April 22, 2005; [REDACTED] money transfer receipts, dated June 21, 2004, and May 30, 2004; a schedule notice for an ESOL 5 class in April 2006; a Sprint PCS invoice, issued in June 2005; an undated Sprint PCS Advantage agreement; 33 generic receipts; a United States Postal Service mail receipt date stamped August 15, 2003; 9 Travelers Express money order receipts; a United States Postal Service money order receipt; 2 generic money order receipts, issued in 1999; and 3 Global Express money order receipts, issued in 2003.

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 as 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.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence 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 January 5, 2007, upon the applicant's re-registration during the requisite period.

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

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On February 17, 2006, the applicant was provided the opportunity 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 identity, his residence in the United States since December 30, 1998, and his physical presence in the United States from January 5, 1999. As noted by the director, the applicant failed to respond to the notice of intent to deny, and the notice of intent to deny was not returned as undeliverable.

On appeal, the applicant states that he has been living in the United States since 1998, and that his parents are TPS registrants since 1998. It is noted however, that the applicant, who was 24 years old when he filed his TPS application, did not provide any documentation to establish his eligibility for late initial registration based on his parents' TPS status.

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 will be affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying residence and physical presence in the United States. As noted, above, on February 17, 2006, the applicant was requested to submit evidence establishing his identity, his residence in the United States since December 30, 1998, and his physical presence in the United States from January 5, 1999. However, as noted above, the applicant failed to respond to the director's notice of intent to deny. None of the evidence submitted by the applicant establishes his continuous residence in the United States and his continuous physical presence.

It is also noted that although the applicant stated on his Form I-821, Application for Temporary Protected Status, that he entered the United States on October 20, 1998, the applicant submitted the biographic page of his passport which shows that the passport was issued in Honduras, on February 24, 2004. It is the applicant's responsibility to resolve inconsistencies between his application and his supporting documentation. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and 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 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies between his entry date in the record and his supporting documentation. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded

that the applicant has failed to establish his continuous residence and continuous physical presence in the United States during the requisite period.

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.