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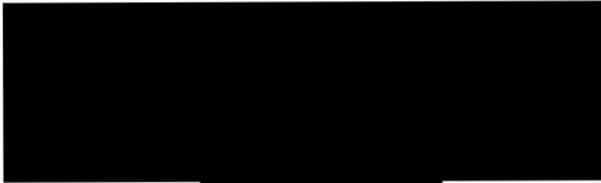


U.S. Citizenship
and Immigration
Services

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DEC 29 2006



FILE:



Office: VERMONT SERVICE CENTER

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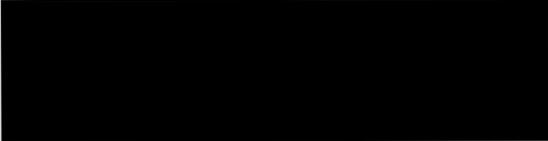
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied, reopened, and denied again by the Director, Vermont Service Center (VSC), 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 he was eligible for late registration. The director also found the applicant failed to establish his qualifying continuous physical presence in the United States during the requisite time period.

On appeal, the applicant submits a letter and additional documentation.

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.

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 October 20, 2003, four years and two months after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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 meets the above requirements. Applicants must 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 November 28, 2003, the director requested the applicant to submit evidence establishing his eligibility for late registration. The applicant was also requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. There is no indication in the record that the applicant responded to the director's request.

The director denied the application on July 22, 2004. The applicant filed an appeal from that decision on April 9, 2004. On November 30, 2005, the AAO remanded the case to the VSC to identify the specific reasons for denial of the application. On March 22, 2006, the VSC denied the application on the grounds that the applicant failed to establish his eligibility for late registration and his qualifying continuous physical presence in the United States during the requisite time period. The applicant filed his appeal from that decision on April 24, 2006.

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

Although the applicant has submitted documentation in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods, he 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 this reason will be affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying continuous physical presence in the United States since March 9, 2001.

The applicant claims to have lived in the United States since 1986. He has submitted a variety of documentation, including originals and photocopies of receipts, utility bills, account statements, earnings statements, and other correspondence, dating from 1989 through 2005, to satisfactorily establish his qualifying continuous physical presence in the United States during the requisite time period. He has, therefore, met the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application on this ground will be withdrawn. Nevertheless, the applicant remains ineligible for TPS due to his failure to establish his eligibility for late registration as discussed above.

It is noted that the record reflects that the applicant filed a Form I-485, Application to Register Permanent Residence or Adjust Status, on September 6, 1997. That application was denied July 15, 2002.

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.