

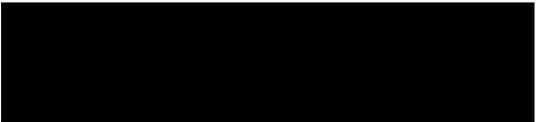
Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

M 1

PUBLIC COPY



FILE: [REDACTED] OFFICE: Vermont Service Center Date: FEB 27 2006
[EAC 03 215 51428]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 (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 periods.

On appeal, the applicant asserts his eligibility for TPS and submits some evidence in support of his claim.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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. 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 period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on July 18, 2003.

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).

On August 11, 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 residence in the United States since December 30, 1998, to the date of filing his application, his physical presence in the United States from January 5, 1999, to the date of filing his application. In response, the applicant submitted copies of earnings statements from State Warehouse reflecting pay dates of, November 5, 1998, February 4, 1999, and August 13, 1999. The applicant, however, did not submit any

evidence to establish his eligibility for late registration. The director determined that the applicant had failed to establish he was eligible for late registration. The director also determined that the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. Therefore, the director denied the application on October 15, 2003.

On appeal, the applicant states that he was a non-immigrant during the initial registration period. The applicant also states that he was unable to submit an application for TPS because he was pending removal and that he was detained by the Immigration and Naturalization Service at Houston, Texas on or about November 10, 1989. He further states that he has submitted the requested documentation in support of his qualifying continuous residence and physical presence in the United States. Along with his appeal, the applicant submits the following documentation: a letter dated November 12, 2003, from [REDACTED] who stated that the applicant had been under his care since 1991; a copy of a generic hand-written paging service agreement from Somerest Paging signed on January 10, 1995; a copy of a money transfer receipt dated February 14, 1999, from Giant Express, Inc.; a copy of a billing statement from Robert Wood Johnson University Hospital reflecting a service date of March 6, 1998; a copy of a Western Union money transfer receipt dated December 20, 1997; a copy of a notice dated June 9, 1998, from Robert Wood Johnson University Hospital; a copy of an earnings statement from Hub Servall Record Manufacturing Corporation bearing a pay period from "10/02" to "10/13/90"; and a copy of a hand-written receipt from B&B Auto Service dated January 22, 1998.

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

The record of proceedings 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 he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The applicant states on appeal that he qualifies for TPS late registration because he was a non-immigrant during the initial registration period. The applicant also states that he filed for TPS late registration because he was pending removal and that he was detained by the INS on November 10, 1989. The applicant has not submitted any evidence to substantiate his claim and 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 conclusion that the applicant had failed to establish his eligibility for TPS late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

The receipt from Somerset Paging, the Western Union money transfer receipt, the billing statements from Robert Wood Johnson University Hospital, the earnings statement from Hub Servall Record Manufacturing Corporation, the receipt from B&B Auto Service all pre-date the beginning of the requisite period for Honduran TPS. The letter from [REDACTED] is not supported by corroborative evidence in support of his statement that the applicant had been under his care since 1991. The money transfer receipt from Giant Express post-dates the beginning of the requisite time periods for Honduran TPS. It is also noted that this receipt does not appear to have been validated by an agent of the company, or signed by the applicant. 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 determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status 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 TPS 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.