



U.S. Citizenship  
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FILE: [REDACTED]  
[SRC 99 199 52705]

Office: NEBRASKA SERVICE CENTER

Date: MAY 04 2006

IN RE: Applicant:

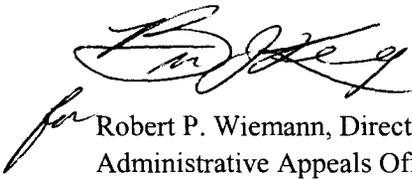


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.

  
for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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 noted that the earliest evidence that the applicant had submitted was dated June 10, 1999. The director determined that the applicant failed to establish he had continuously resided in the United States since December 30, 1998 and had been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant states:

Notice that translation of Birth Certificate was issued on 10-28-98. Public Notary may be used for any reference or questions. He's from the State of Florida.

At the time of my arrival in the U.S. I had no legal Documents to work with or show my name on bills, or anything. Enter date to U.S. was on 9-20-98.

The applicant did not submit any new evidence of continuous residence or continuous physical presence on appeal.

Section 244(c) of the Act, and the related regulations at 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 in the United States 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 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).

The record shows that the applicant filed his TPS application on June 16, 1999. The applicant indicated on his application that he entered the United States on August 20, 1998.

On appeal, the applicant states that the translation of his birth certificate shows it was issued on October 28, 1998 and argues that this fact establishes that he was in continuous residence in the United States prior to December 30, 1998. The translation does show "CERTIFICATE ISSUED: 10-28-98", however that was the date that the applicant's submitted birth certificate was issued abroad in Honduras. The person who made the translation of the birth certificate did not complete his work in Florida until June 5, 1999 when he notarized the translation. Even had the translation been completed in October 1998 that fact would not have established that the applicant was residing in the United States on that date. In this case, the applicant is required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). None of the evidence presented by the applicant establishes his continuous residence since December 30, 1998 and his continuous physical presence from January 15, 1999, to June 10, 1999, the date he used a money order to send funds abroad. Therefore, he has not satisfied the continuous residence and continuous physical 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 is affirmed.

It is noted that the applicant was given an opportunity to submit evidence as a Notice of Intent to Deny, (NOID), was sent to him by the director on June 29, 2004, requesting evidence of his date of entry, continuous residence and continuous physical presence. The applicant responded to the director's NOID and the director acknowledged the evidence submitted in his decision.

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.