

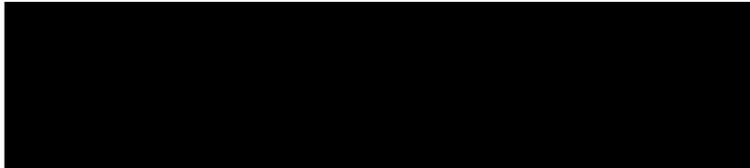


U.S. Citizenship
and Immigration
Services

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FILE:

[EAC 03 181 51641]

OFFICE: VERMONT SERVICE CENTER

DATE: **MAY 09 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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 applying for 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 his eligibility for TPS.

On appeal, the applicant claims that he submitted a TPS application on March 1, 2002, but that it was never processed. The applicant also claims that the Vermont Service Center told him to file another TPS application, which he did.

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.

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 application with Citizenship and Immigration Services (CIS) on May 19, 2003.

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 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 own statements. 8 C.F.R. § 244.9(b).

On June 25, 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 residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his mother's status as a TPS applicant.

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

The applicant filed an appeal to the AAO on October 1, 2003. The AAO remanded the case to the Vermont Service Center for further review on August 17, 2004. The Director, Vermont Service Center denied the applicant's appeal on December 8, 2004, because the applicant had failed to establish his eligibility for late registration, continuous residence and continuous physical presence in the United States during the requisite periods. The director noted that the applicant was not eligible for late registration because he failed to timely file his TPS application within 60 days after he became 21 years old.

On appeal, the applicant claims that he originally filed a TPS application on March 1, 2002, but that it was never processed.

There has been no evidence submitted to substantiate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. 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) or that he filed a TPS application with any service center in March of 2002. Consequently, the director's decision to deny the application for TPS 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 applicant was requested on June 25, 2003 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. Rent receipts dated December 30, 1998 and January 30, 1999 bearing the applicant's name as tenant;
2. An affidavit from [REDACTED] in which he stated that he has known the applicant since May of 1998 and that the applicant periodically provided cleaning services to him from 1998 to 1999;
3. A letter dated July 2, 2003 from [REDACTED], president of [REDACTED] and [REDACTED] company in which he stated that the applicant worked for him, on and off, since September of 1998; and
4. A letter from [REDACTED] of [REDACTED] in which he stated that he has known the applicant since 1998 when the applicant first reported to his office for employment.

The director concluded that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant reasserts his claim of eligibility for TPS.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant claims continuous residence and continuous physical presence in the United States since May of 1998; however, he submitted a copy of his Honduran passport which was issued to him in Honduras on February 5, 2001. 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 inconsistency.

The rent receipts (Item No. 1 above) provided by the applicant are not supported by any other corroborative evidence and therefore, are insufficient to establish the applicant's eligibility for TPS. While 8 C.F.R. §

244.9(a)(2)(vi) specifically states that additional documents “may” be accepted in support of the applicant’s claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant’s qualifying continuous residence and continuous physical presence in the United States. The applicant claims to have lived in the United States since 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

The employment letter from [REDACTED] (Item No. 3 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter is not in affidavit form and does not provide the address where the applicant resided during the period of his employment. It is further noted that the letter is vague concerning the specific dates the company employed the applicant, his employment status, and his duties. The employment letter from [REDACTED] (Item No. 4 above) does not contain a business address, company logo, or signature. It is also noted that the letter is vague concerning the specific dates in which the company employed the applicant.

There has been no corroborative evidence submitted to support the statement made by the affiant (Item No. 2 above) regarding the applicant’s claimed presence in the United States since May of 1998. Affidavits are not, by themselves, persuasive evidence of continuous residence or continuous physical presence. Further, if this knowledge is based primarily on what the applicant told them about his entry into the United States, then their statements are essentially an extension of the applicant’s personal testimony rather than independent corroboration of that testimony. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant’s continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by churches, unions, or other organizations of the applicant’s residence as described in 8 C.F.R. §244.9(a)(2)(i) and (v).

The applicant has failed to establish that he has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director’s decision to deny the application for TPS on these grounds will also be affirmed.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.