



U.S. Citizenship
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Services

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FILE: [REDACTED]
[SRC 04 107 54394]

OFFICE: TEXAS SERVICE CENTER Date: NOV 03 2006

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and the applicant's appeal from the denial decision was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The case will be reopened and the appeal will again be dismissed.

The applicant claims to be 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 identity and nationality and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On motion, the applicant submits a statement and additional evidence.

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, 2007, 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 TPS application with Citizenship and Immigration Services (CIS) on March 3, 2004.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

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

On April 6, 2004, 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 identity and nationality and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided documentation relating to his residence and physical presence in the United States. The applicant also submitted a photocopy of a Honduran birth certificate with an uncertified English translation.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on April 26, 2004.

On appeal, the applicant submitted the same documents previously submitted in response to the Notice of Intent to Deny and photocopies of three Employment Authorization Cards valid from October 20, 2000 to July 5, 2001, January 23, 2003 to July 5, 2003, and from May 31, 2003 to January 1, 2005, indicating that [REDACTED] a citizen of Honduras, had been granted TPS under CIS registration number [REDACTED].

The Director (now Chief) of the AAO dismissed the appeal stating that the birth certificate with uncertified English translation is not sufficient to establish that [REDACTED] is the applicant's mother or that he is the child of an alien currently eligible to be a TPS registrant.

On motion, the applicant has not submitted any additional evidence to establish he qualifies for late initial registration as the child of an alien currently eligible to be a TPS registrant. The applicant has not submitted any evidence to establish that he has met any of the other 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 late initial 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.

As stated above, the applicant was requested on April 6, 2004, 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. photocopies of certificates from an unknown school dated in 1999.

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 submitted:

2. photocopies of certificates from an unknown school dated in 1998 and 1998; and,

3. a photocopy of a cash receipt from Jackson Memorial Hospital in Miami, Florida, dated August 29, 1999.

The Director of the AAO concluded that the applicant had not established his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and dismissed the appeal on September 30, 2005.

On motion to reopen, the applicant submits the following additional evidence:

4. photocopies of money transfer receipts dated: June 12, 2004; July 19, 2004; December 19, 2004; and, March 18, 2005; April 23, 2005;
5. photocopies of Bank of America documents dated: May 26, 2005; June 1, 2005; and, September 26, 2005;
6. a photocopy of a 2003-2004 student identification card from the Lindsey Hopkins Technical Education Center in Miami, Florida;
7. a photocopy of a student class scheduled from the Bureau of Community Services and Career Preparation, Miami-Dade County Public Schools, Miami, Florida, dated April 20, 2004;
8. a photocopy of a Radio Shack receipt dated October 24, 2004;
9. a photocopy of a Sprint billing statement dated November 25, 2004; and
10. photocopies of various generic cash receipts.

The applicant has not submitted sufficient evidence to establish his continuous residence in the United States from December 30, 1998 to 2004 or his continuous physical presence in the United States from January 5, 1999, to 2004. He has, therefore, failed to establish that he has met the 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.

The third issue in this proceeding is whether the applicant has established his identity and nationality.

Each application must be accompanied by evidence of the applicant's identity and nationality. Acceptable evidence in descending order of preference may consist of the alien's passport, a birth certificate accompanied by photo identification, and/or any national identity document from the alien's country of origin bearing photo and/or fingerprint. 8 C.F.R. § 244.9(a)(1).

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.



The applicant has submitted a photocopy of a Honduran birth certificate, but he has not submitted an English translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from Spanish to English. Furthermore, the applicant has not submitted a photocopy of an official Honduran document bearing the applicant's photograph. Therefore, the director's conclusion that the applicant has not established his identity and nationality will also be affirmed.

The application must be denied for each of 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.