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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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Services

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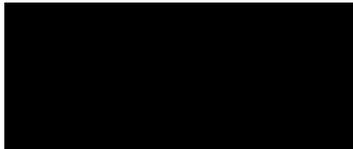
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **OCT 23 2006**  
[EAC 05 152 70413]

IN RE: Applicant: [REDACTED]

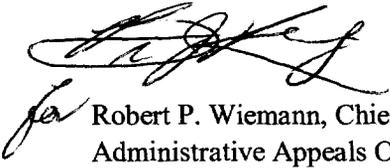
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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 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 initial registration. The director also found that the applicant had not established that he had been continuously physically present in the United States since January 5, 1999 and that he had continuously resided in this country since December 30, 1998.

On appeal, counsel states that the applicant entered the United States in Miami on October 24, 1998 using a valid nonimmigrant visa and that he has maintained continuous physical presence and continuous residence in the United States since that date. Counsel provides additional documentation in support of the applicant's 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 temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f) (1) Registers for TPS 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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed his application with Citizenship and Immigration Services (CIS), on March 1, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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 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 October 7, 2005, 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). Counsel states that the applicant did not respond to that request because he had moved from the address that he had on file with CIS. The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 14, 2006.

On appeal, the applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his 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 the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed for this reason.

Upon initial submission, the applicant submitted the following:

1. A copy of his passport containing a nonimmigrant visa and entry stamp showing that he entered the United States on October 24, 1998 in C-1 nonimmigrant status as an alien who is not a diplomat who was in transit through the United States.
2. Ten store, bank and postal receipts dated 1998 or 1999.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on March 14, 2006.

On October 7, 2005, the applicant was also requested to submit evidence establishing his continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. The applicant did not respond to the director's request. On appeal, he submitted the following documentation:

3. A copy of a receipt to the applicant for cash from a law office in Dallas, Texas dated December 4, 1999.
4. A copy of the applicant's exam results dated December 6, 1999, from Harcourt Learning Direct for a course entitled "a closer look at the personal computer."
5. A copy of a payment coupon from the applicant to ICS Learning Systems in Scranton, Pennsylvania dated December 20, 2000.
6. A copy of a Western Union money transfer showing the applicant sent money to an individual in Honduras on June 8, 2001.
7. A copy of a notarized Spanish language document named "Poder Especial" dated April 5, 2002.
8. A copy of the lower portion of the applicant's telephone bill from MCI dated January 1, 2003.
9. A copy of a letter from [REDACTED] the applicant's cousin. She states that he has been in the United States since October, 1998.

10. A copy of a letter from [REDACTED] a Sister of [REDACTED]. She states that he has been in the United States since October, 1998.
11. A copy of a letter from [REDACTED] the applicant's uncle. He states that the applicant has been in the United States since October, 1998.
12. A copy of a letter from [REDACTED] the applicant's half brother. He states that the applicant has been in the United States since October, 1998.
13. A copy of a letter from [REDACTED] the applicant's cousin. She states that he has been in the United States from October, 1998.

On appeal, the applicant has submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and has therefore overcome this portion of the director's determination.

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.