

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



M

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **OCT 27 2006**
[WAC 05 098 75244]

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, California Service Center (CSC), and is currently before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is applying for re-registration of Temporary Protected Status (TPS) or renewal of temporary treatment benefits under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant was ineligible for re-registration for TPS or renewal because he had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

CIS records reveal that the applicant was apprehended entering the United States without inspection near Hidalgo, Texas, on January 13, 1999. On appeal, the applicant confirms that this is his correct date of entry.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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.

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.

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 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).

The applicant filed an initial Form I-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on August 23, 1999, after the initial registration period for Hondurans had ended (SRC 99 260 53720 relates). At the time of filing his initial application, the applicant indicated that he had last entered the United States without inspection on January 13, 1999. The application was approved by the director of the TSC on June 20, 2000. However, the director's decision was in error. Specifically, the record confirms that the applicant filed his TPS application after the initial registration period had expired, and that he had not submitted **any** evidence to establish that he had met **any** of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Furthermore, because the applicant indicated that he had entered the United States on January 13, 1999, **after** the requisite time periods, he had not established that he satisfied the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c).

The applicant filed the current Form I-821 on January 6, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits. On this Form I-821, the applicant indicated that he had last entered the United States on January 6, 1998.

The director noted that CIS records revealed that the applicant had, in fact, last entered the United States on January 13, 1999, when he was apprehended entering the United States without inspection. Therefore, the director of the CSC determined that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods, and denied the application on June 27, 2005.

On appeal, the applicant affirms that his correct date of entry in January 13, 1999, **not** January 6, 1998.

Based on the evidence contained in the record, it is concluded that the applicant has failed to establish that he has continuously resided in the United States since December 30, 1998, and has been continuously physically present since January 5, 1999. Therefore, the director of the CSC's denial of the application will be affirmed.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1). If a decision to withdraw Temporary Protected status is entered by the AAO, the AAO shall notify the alien of the decision and the right to a de novo determination of eligibility for Temporary Protected Status in removal proceedings, if the alien is then removable. 8 C.F.R. § 244.14(c).

In this case, since it has been determined that the applicant is ineligible for TPS due to his failure to establish his eligibility for late registration and his qualifying continuous residence and continual physical presence in the United States during the requisite time periods, it is further concluded that the applicant has become ineligible for TPS after having been granted that status. Therefore, in accordance with 8 C.F.R. § 244.14, the prior approval of the applicant's TPS status is hereby withdrawn.

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 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 approval of the initial application is withdrawn. The appeal from the denial of the application for re-registration or renewal of temporary treatment benefits is dismissed.