U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: SEP 28 2006
[WAC 05 106 77827]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 had: (1) failed to establish that he had continuously resided and had been continuously physically present in the United States during the requisite periods; and (2) failed to "register in a timely manner."

On appeal, the applicant requests reconsideration because he has a United States citizen son, and that he has to support his family. He submits additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

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 time period.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record shows that the applicant filed his initial TPS application on January 14, 2005.

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

The record of proceeding 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 from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

On February 9, 2006, 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). He was also requested to submit evidence to establish his nationality, and evidence of continuous residence and continuous physical presence during the requisite periods. The director noted that the applicant furnished evidence that he is a national of Honduras, and evidence in an attempt to establish residence and physical presence. The applicant, however, failed to submit any evidence to establish eligibility for late registration and denied the application on March 22, 2006.

On appeal, the applicant neither addressed nor 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). Consequently, the director's decision to deny the application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and continuous physical presence from January 5, 1999, to the date of filing the application.

Because evidence contained in the record was insufficient to establish eligibility, the applicant was requested on February 9, 2006, to submit evidence to establish continuous residence and continuous physical presence in the United States during the requisite periods. In response, the applicant submitted:

1. A statement from Francisco, California, indicating that the applicant has been visiting their congregation at "Hosanna" church since December 1998.

2. A copy of his son's State of California birth certificate indicating a date of birth of January 26, 2005.

The director determined that the evidence furnished by the applicant was insufficient to establish residence and physical presence and denied the application on March 22, 2006.

On appeal, the applicant resubmits a copy of his Honduran passport, and resubmits a copy of his son's birth certificate. He also submits:

3. A statement dated December 14, 2004, indicating that she rented a room to the applicant since December 25, 1998, for the amount of $400 a month at the address:

4. A statement from Solher Iron, San Francisco, California, indicating that he has known the applicant since November 1998 when they both worked at Nueval Castilla Company in San Francisco, California, and that in 2001, they again worked together at Solher Iron.

The statement from (No. 1 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)(v). Specifically does not explain the origin of the information to which he attests, and how he knows the applicant. Additionally, he failed to show inclusive dates of the applicant's membership at the church, if he were in fact a member, and the address where the applicant resided during the membership period.

The statement from (No. 3 above) is inconsistent with the evidence of record. While Ms. Zepeda indicated that she rented a room to the applicant since December 1998 at the record indicates that the applicant claims he resided at rather than as claimed by Additionally, it is noted that the statement from (No. 4 above) is on a letterhead of the company, does not list his title on the letter or that he is an official of that company. If this were an official employment letter, it 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, it was not attested to by the employer under penalty of perjury, it does not provide the address or addresses where the applicant resided during the period of his employment, the exact

period(s) of employment, the periods(s) of layoff, if any, and the applicant's duties with the company. Moreover, the letter was not supported by any other corroborative evidence, such as pay statements.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided by the applicant to establish his qualifying residence in the United States are not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since December 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claim; however, no such evidence has been provided.

Accordingly, the applicant has failed to establish that he has met the criteria for continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on this ground will also be affirmed.

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.