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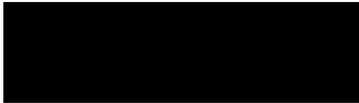
Office: Texas Service Center

Date: APR 03 2007

[SRC 04 059 53198]

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
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native or 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 that he was eligible for late registration.

On appeal, the applicant asserts his claim of eligibility for TPS and submits evidence in support of his 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 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.

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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 initial application with the Citizenship and Immigration Services (CIS), on December 22, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she 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 or she 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 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 or her own statements. 8 C.F.R. § 244.9(b).

On February 4, 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 director also requested the applicant to submit evidence to establish his arrival date into the United States, and his continuous physical presence in the United States from January 5, 1999. In addition, the director requested the applicant to submit evidence that he is a national of Honduras.

In response, the applicant submitted copies of the Employment Authorization cards for [REDACTED]; a copy of his video rental card; and, some evidence in an attempt to establish his continuous physical presence and continuous residence in the United States; however, he did not submit any evidence to establish his eligibility for late registration. The director, therefore, determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 3, 2004.

On appeal, the applicant asserts that he has lived in the United States since 1998, and that he has submitted all of the evidence to prove and demonstrate that he has been living in the United States since that time. Along with his appeal, he also submits copies of the Employment Authorization cards of [REDACTED] and some evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

It appears that the applicant claims that he is eligible for late registration because his father, [REDACTED] is eligible to be a TPS registrant. However, a review of the record of proceedings reflects that the applicant did not provide any evidence of the legal relationship with his claimed father, [REDACTED]. The applicant has not satisfied the requirements for eligibility for late registration under 8 C.F.R. § 244.2(f)(2)(iv). Further, it is noted on the Form I-765, Application for Employment Authorization, the applicant indicated both his manner of entry into the United States and his current immigration status as entry without inspection (EWI), while on the Form I-821, Application for Temporary Protected Status, the applicant indicated that he entered the United States without inspection, and listed his current immigration status as an F-1, nonimmigrant student. The applicant, however, presented no evidence to substantiate that he had been granted any type of nonimmigrant status. Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, in addition to meeting the criteria for late registration, the applicant must also establish his continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

A review of the record of proceedings reflects that the applicant submitted a copy of his Honduran personal identification along with his application for TPS. It is noted that the applicant's personal identification card was issued to him on January 17, 2001, in Honduras. Further, the record reflects that the applicant's

Honduran passport was issued to him in Honduras on September 20, 2001, and that the applicant was issued a visitor's visa to Mexico on June 23, 2003. It is also noted that [REDACTED] claimed on his initial and subsequent TPS applications filed since April 19, 1999, through 2004, that the applicant was residing in Honduras. Therefore, the applicant could not have met the requirements that he had continuously resided in the United States since December 30, 1998, and he had been continuously physically present in the United States from January 5, 1999. The applicant has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and therefore, the application will also be denied for these reasons.

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 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.