

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**

M1

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **AUG 27 2007**

[EAC 06 312 89641]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

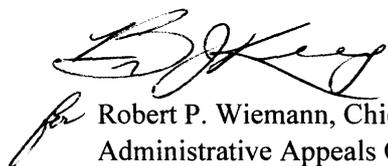
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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

The applicant is a 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 determined that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as 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.

*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.

*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 January 5, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed this application on August 8, 2006.

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). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On October 11, 2006, the applicant was provided the opportunity 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 nationality and identity, his continuous residence in the United States since December 30, 1998 and his continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant failed to respond to the notice.

On appeal, the applicant states that he entered the United States in 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period.

The second and third issues in this proceeding are 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 October 11, 2006 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant failed to respond to the notice.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

1. Copies of various retail store receipts.
2. Copies of money order receipts dated September 4, 1998, May 18, 1999, July 2, 1999, September 27, 1999, August 20, 1999, February 6, 2000, February 16, 2000, April 18, 2000, March 28, 2003, November 4, 2001, November 27, 2001, June 17, 2002, November 26, 2002, August 17, 2003, June 8, 2004, June 14, 2004, July 10, 2004, July 13, 2004, November 4, 1998, August 7, 2004, December 31, 2004, February 12, 2005, and May 6, 2006,
3. Copies of statements from [REDACTED] and [REDACTED]
4. Copies of International Money Orders dated September 5, 2006, and December 14, 2006.
5. Copies of tax documents for 1999, 2001, 2002, 2003, and 2004.
6. Copies of U.S. Postal Service receipts dated May 31, 2000, June 21, 2001, October 5, 2004, October 13, 2004, and April 26, 2005.
7. A copy of a payment receipt dated February 3, 1999.

The various retail store receipts and the money order receipts do not bear the applicant's name or indicate any connection to the applicant. Therefore, the receipts are of no probative value.

The tax documents indicate the applicant may have been present in the United States during those years. However, these documents cannot establish the applicant's continuous residence since December 30, 1998, and continuous physical presence from January 5, 1999 to the date the TPS application was filed. The retail store receipts, money order receipts and the February 3, 1999 receipt do not bear the applicant's name or indicate any connection to the applicant. Therefore, the receipts are of no probative value.

██████████ states that he has known the applicant since January 1998. ██████████ states that the applicant was his tenant from December 1998 to about June 1999. ██████████ states that she has known the applicant since January 1998, and that the applicant lived with her until he was able to rent on his own and that her former husband ██████████ gave him employment as a handyman so that he could earn some money. ██████████ states that he has known the applicant since December 1998. ██████████ states that she has known the applicant since January 1998. However, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided.

██████████ states that the applicant has attended his church since February 1999. However, this statement 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, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. Furthermore ██████████ can only attest to the applicant's presence in this country after the qualifying dates for continuous residence and continuous physical presence. It is also noted that ██████████ stated that the applicant was his tenant from December 1998 to about June 1999. However, ██████████ states that she has known the applicant since January 1998, and he lived with her until he was able to rent on his own. This discrepancy has not been satisfactorily explained. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

██████████ provides a clinical findings report dated November 8, 2002 and a report on nasal bones dated September 20, 2002. ██████████'s letter is dated April 30, 2003 and concerns an insurance claim for the applicant. ██████████ provides an orthopedic consultation report dated January 28, 2003. The letter from ██████████ dated October 24, 2002, concerns an insurance claim. ██████████ provides a copy of an Independent Contractor Agreement with the applicant dated November 18, 1998. These statements are dated subsequent to the qualifying dates to establish continuous residence and continuous physical presence. Therefore, the evidence presented is of little or no probative value.

The applicant has not submitted sufficient evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. 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 temporary protected status on these grounds will also be affirmed.

Beyond the decision of the director, it is noted that the applicant provided a photocopy of the first page of his passport in an attempt to establish his nationality and his identification. However, the passport was signed by the applicant and issued in Honduras on June 9, 2001. This is further evidence that the applicant has not met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c), thereby precluding a finding that the applicant was in the United States during the operable timeframe. Therefore, the application must be denied on this basis as well.

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.