



U.S. Citizenship  
and Immigration  
Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**PUBLIC COPY**



11

FILE:



Office: California Service Center

Date:

**AUG 28 2007**

[WAC 06 152 70060]

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). A subsequent appeal was dismissed by the Director, now Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen 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 CSC director denied the current application because the applicant's previous TPS application had been denied.

An appeal from the CSC director's decision was dismissed on February 28, 2007, after the Chief of the AAO concluded that the applicant was not eligible to re-register for TPS. The AAO also determined that the applicant failed to show that the current application should be accepted as a late initial registration, and that the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. On March 28, 2007, the applicant submitted a motion to reopen which is now before the AAO.

On motion to reopen, the applicant asserts that he has lived in the United States since 1998, and that he has answered all requests for documents that he has received from Citizenship and Immigration Services (CIS). The applicant also submits copies of some evidence in an attempt to establish his eligibility TPS.

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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status 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 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).

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 applicant's motion to reopen consists of some evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. However, the applicant has not 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). As such, this issue on which the underlying decision was based has not been overcome on motion.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

Along with his motion, the applicant provides the following copies of documentation: money transfer receipts from Ficohsa Express dated September 2, 2003, and May 2, 2005; a copy of a Sprint billing statement dated August 5, 2005; a copy of a utility bill dated February 13, 2006; copies of three hand-written receipts dated January 21, 2006, February 18, 2006, March 26, 2006, and May 12, 2006; a copy of an application for Certificate of Title dated May 18, 2004; a copy of a receipt from FedUSA Insurance dated May 7, 2007; a copy of a Western Union money transfer receipt dated November 21, 1998; a copy of a notice dated October 24, 2005, from The Gainsco Companies; and copies of cash register and money order receipts which do not bear any name.

The cash register and money order receipts submitted by the applicant from various merchants do not bear any name; therefore, have little, if any, evidentiary weight in this proceedings. In addition, the Western Union money transfer receipt appears to have been altered and the original name on the receipt covered over. The remaining evidence post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient credible 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. The applicant has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2 (b) and (c). As such, this issue on which the underlying decision was also based has not been overcome on motion.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated February 28, 2007, is affirmed.