



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 03 205 52647]

Office: California Service Center

Date: **DEC 19 2007**

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, 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 determined that the applicant failed to submit evidence to establish that he was eligible for filing after the initial registration period from January 15, 1999 to August 20, 1999. The director also determined that the applicant had not furnished evidence of his identity, and he had not submitted sufficient evidence to establish that he had continuously resided in the United States since December 30, 1998, and that he had been continuously physically present in the United States since January 5, 1999. The director, therefore, denied the application.

On appeal, the applicant states that he is eligible for TPS as the child of a TPS registrant. The applicant submits additional 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 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 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 in the United States 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 time period.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record reflects that the applicant filed his initial TPS application on June 10, 2003.

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 has established his identity.

On appeal, the applicant furnished a copy of the biographic pages of his Honduran passport, which was issued in Honduras on February 1, 2002. The record of proceeding contains a copy of the applicant's Honduran

birth certificate, and an English translation. Therefore, the applicant has overcome this portion of the director's decision.

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

The record of proceeding confirms that the applicant filed his initial TPS application on June 10, 2003, after the initial registration period for Hondurans had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he 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 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).

In a notice of intent to deny his application dated October 13, 2003, 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 to establish his identity, and evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States from January 5, 1999. In response to the October 13, 2003 notice of intent to deny his application, the applicant furnished a photocopy of his initial TPS application, which had been amended to state he had entered the United States in September 2002. The applicant also stated in his response to the notice of intent to deny his application that he had applied for TPS through his father, who was a TPS registrant. He submitted a copy of his birth certificate, and copies of receipt notices mailed to his father in connection with his application for TPS. The director concluded the applicant had not established eligibility for late registration. On November 17, 2003, the director denied the application.

On appeal, the applicant states that he was 16 years of age when he came to the United States, and he was not aware of any requirements regarding immigration laws. The applicant submits a photocopy of his father's Employment Authorization Document (EAD). However, while regulations may allow children of aliens who are TPS-eligible to file their applications after the initial registration period has closed, these regulations do not relax the requirements for eligibility for TPS. Every TPS applicant must fulfill all the requirements in order to gain TPS status; status cannot be acquired through any other person. The record reflects that the applicant stated that he arrived in the United States in September 2002, subsequent to the eligibility period. Therefore, he cannot satisfy the criteria described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The third issue in this proceeding is 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.

The applicant did not indicate on his initial Form I-821, Application for Temporary Protected Status, or on his Form I-765, Application for Employment Authorization, filed on June 10, 2003, the date when he came to the United States. However, in response to the October 13, 2003 notice of intent to deny his application, the applicant furnished a photocopy of his initial TPS application and his initial application for employment authorization, which had been amended to state he had entered the United States in September 2002. The applicant's signature appears next to the amended date on both forms. The director concluded the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States, and denied the TPS application on November 17, 2003.

On appeal, the applicant again asserts that he is eligible for TPS as the child of a current TPS registrant. He submits a photocopy of the biographic pages from his Honduran passport, an identification card that indicates that he was enrolled at the John Glenn High School (city and state not shown) during the 2003 to 2004 school year, and a copy of his father's EAD. Pursuant to Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, an alien who is a national of a designated state is eligible for temporary protected status only if such alien establishes that he or she has met the continuous residence and continuous physical presence criteria for TPS. By his own admission, the applicant did not enter the United States until September 2002. Therefore, he could not have met the requirements of continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. The applicant has failed to establish that he has met the continuous physical presence and continuous residence requirements 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.

The application will be denied for the above stated reasons, with each reason being 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.