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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: Texas Service Center

Date:

JUL 27 2007

[SRC 04 103 53922]

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). An appeal was dismissed by the Director, now Chief, Administrative Appeals Office (AAO). The applicant filed a motion to reopen which was also dismissed by the AAO. The matter is now before the AAO on a subsequent motion to reopen. The motion to reopen will be granted and 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 failed to establish his eligibility for TPS late registration. The director also denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence.

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.

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 Honduras was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS), on February 26, 2004, over four years after the initial registration period had closed.

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).

The director determined that the applicant had failed to establish his eligibility for TPS late registration as well as his qualifying continuous residence and continuous physical presence in the United States; therefore, the director denied the application on May 11, 2004. The applicant filed an appeal to the director's decision, which was dismissed by the Director, now Chief, of the AAO on August 29, 2005. The applicant filed a subsequent motion to reopen the AAO director's decision that was dismissed on December 28, 2006.

On January 30, 2007, the applicant submits a second motion to reopen which is now before the AAO. In his motion, the applicant asserts that he has lived in the United States since 1997, and that he has answered all the documents that he has received from CIS.

The applicant also submits copies of Western Union, MoneyGram and Pronto Envios money transfer receipts dated May 9, 2003, March 6, 2004, April 8, 2004, and September 11, 2004; a receipt dated May 30, 2006, from the Division of Driver Licenses; and several money order and cash register receipts from August 3, 1998 to July 12, 2005, that do not bear any name.

The first issue in these proceedings is whether the applicant has established his eligibility for TPS late registration.

A review of the record reflects that 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). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

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

The applicant submits money order and cash register receipts do not bear the name of the applicant; therefore, these have little, if any, evidentiary weight in these proceedings. The remaining evidence post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence.

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). Consequently, the director's decision to deny the application for these reasons must also be affirmed.

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.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to him.

ORDER: The appeal is dismissed.