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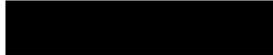
U.S. Citizenship
and Immigration
Services

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FILE:



[EAC 05 134 70698]

OFFICE: VERMONT SERVICE CENTER

Date:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 claims to be 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 failed to establish that he was eligible for late initial registration. The director also found that the applicant had failed to establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

On appeal, the applicant submits a statement. The applicant also indicates that he will send a brief and/or additional evidence within 30 days. To date, the AAO has not received a brief or any additional evidence. Therefore, the record will be considered complete.

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 of a 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 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 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.

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 July 5, 2007, upon the applicant's re-registration during the requisite period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his TPS application with Citizenship and Immigration Services (CIS) on February 11, 2005.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

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

The record of proceedings 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 he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The applicant submitted with his TPS application an uncertified English translation of a purported Honduran marriage certificate, but he has not submitted an original Honduran marriage certificate. The translation indicates that the applicant and [REDACTED] were married in Tela Atlantida, Honduras, on March 10, 2002. The applicant also submitted a "fill-in-the-blank" letter from [REDACTED], CIS registration number [REDACTED], requesting that her "husband" be included as a dependent on her TPS application.

On September 23, 2005, 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 applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States, but he did not submit any additional evidence to establish his eligibility for late initial registration.

The director determined that the applicant had failed to establish he was eligible for late initial registration and denied the application on March 16, 2006.

On appeal, the applicant states that he submitted original documents to establish his eligibility for TPS.

The applicant claims that he qualifies for late initial registration as the spouse of an alien who has been granted TPS, but he has not submitted a photocopy of his original Honduran marriage certificate. Furthermore, pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. In this case, the English translation of the purported Honduran marriage certificate is not certified by the translator that he or she is competent to translate from Spanish to English. For these reasons, the uncertified English translation of a purported Honduran marriage certificate cannot be accepted.

Moreover, a review of the file relating to [REDACTED], CIS registration number [REDACTED] reveals that [REDACTED] lives in Smyrna, Georgia, but the applicant lives in Los Angeles, California. Additionally, Ms. [REDACTED] has consistently indicated in the documents contained in her record of proceeding that she is single, not married. These contradictions raise serious questions of credibility regarding the applicant's claim that he qualifies for late initial registration as the spouse of an alien who has been granted TPS. 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. Further, it is incumbent on 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

The applicant has not submitted sufficient credible evidence to establish that he has met any of the criteria for late initial 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 initial registration will be affirmed.

The second 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 indicated on the Form I-821 that he entered the United States without inspection on January 20, 1989.

As stated above, the applicant was requested on September 23, 2005, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. photocopies of earnings statements from [REDACTED] Company for period from February 1998 through 2003 and two earnings statements dated in 2005;
2. photocopies of money transfer receipts dated: July 26, 1999; August 27, 1999; October 20, 1999; May 8, 2000; June 19, 2000; and, October 9, 2000;
3. a photocopy of a receipt from the Honduran Consulate in Los Angeles, California, dated March 23, 2004; and,
3. a photocopy of a billing statement from La Curacao in Huntington Park, California, dated September 25, 2005, and a receipt from La Curacao dated September 17, 2005.

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

On appeal, the applicant submits photocopies of documents previously submitted in support of the application and photocopies of the reverse sides of two credit cards and an identification card from Manual Arts Community Adult School, Los Angeles, California.

The earnings statements from [REDACTED] (No. 1 above) appear to have been altered. The original employee's name has been eradicated and the applicant's name has been substituted. These alterations raise serious questions regarding the credibility of the other documents submitted by the applicant in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant has 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 TPS on these grounds will also be affirmed.

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.



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ORDER: The appeal is dismissed.