



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: MAR 05 2007
[WAC 05 141 82903]

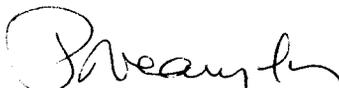
IN RE: Applicant: [REDACTED]

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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be 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 denied the application on the grounds that the record failed to establish that the applicant was continuously resident and physically present in the United States for the required periods of time, or that he is eligible for late registration.

On appeal, the applicant asserts that he has already submitted the requisite evidence and requests that the AAO review his case.

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.

Honduran nationals applying for TPS must demonstrate continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on February 18, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated in 8 C.F.R. § 244.2(f)(2) above.

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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On June 2, 2006, 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), as well as documentary evidence of his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In response the applicant, who claims to have been born in Honduras on December 28, 1989, and entered the United States without inspection on December 22, 1998, submitted a sworn statement from a naturalized U.S. citizen who stated that the applicant and his mother lived in her house at [REDACTED] in Las Vegas, Nevada, from December 1998 until December 1999, at which time the applicant's mother found a job and they moved into their own place. The applicant's mother submitted a statement with the same information. Two other pieces of documentation – receipts from an international courier service dated January 29 and April 7, 1999 –

identify a different address in Las Vegas for the applicant's mother – [REDACTED] No other documentation in the record demonstrates the presence of the applicant in the United States during 1998 and 1999, and the only evidence of the applicant's presence in the United States in succeeding years is a photocopy of an eighth grade school identity card.

In a Notice of Decision issued on August 2, 2006, the director determined that the evidence submitted by the applicant failed to establish that he met the continuous residence and continuous physical presence requirements for TPS applicants from Honduras or that he was eligible for late registration.

No new evidence has been submitted on appeal. The sworn statement from [REDACTED], who claims that the applicant and his mother lived with her from December 1998 to December 1999, provides no information about where the applicant lived thereafter, whether they stayed in touch over the years, and whether the applicant maintained continuous residence and physical presence in the United States from 1999 up to the present. The applicant provides no explanation for the different address for his mother appearing on the two international courier receipts in 1999, at a time when they were assertedly residing with [REDACTED]. The AAO determines that the evidence of record does not meet the evidentiary standard set forth in 8 C.F.R. § 244.9(a)(2) to demonstrate the applicant's continuous residence in the United States since December 30, 1998 (or continuous physical presence in the United States from January 5, 1999 until the filing of his petition in February 2005). The AAO concurs with the director's decision that the applicant has failed to establish that he meets the continuous residence and continuous physical presence requirements for TPS.

Nor does the record include any evidence to establish that the applicant meets one of the criteria for late registration enumerated in 8 C.F.R. § 244.2(f)(2). The AAO concurs with this part of the director's decision as well.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity, in accordance with the provisions of 8 C.F.R. § 244.9(a)(1). The application must also be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. The director's decision to deny the application for TPS will 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.

ORDER: The appeal is dismissed.