

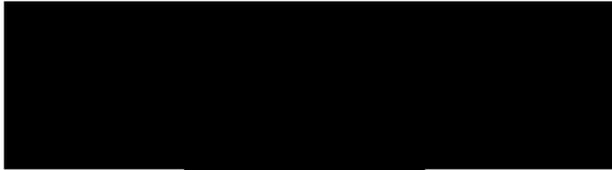
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U.S. Department of Homeland Security
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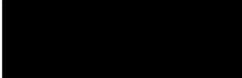
U.S. Citizenship
and Immigration
Services

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FILE:



[WAC 05 333 70483]

OFFICE: California Service Center

DATE:

MAR 22 2007

IN RE:

Applicant:



APPLICATION:

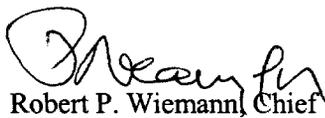
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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

The applicant is a citizen of Honduras who is applying for 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 applicant failed to establish his nationality/identity; his continuous residence and physical presence in the United States for the requisite time periods; and that he filed a TPS application during the initial time period or was eligible for late registration.

On appeal the applicant 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.

Applicants for TPS from Honduras 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 Hondurans was from January 5, 1999, through August 20, 1999. The applicant filed his initial Form I-821, Application for Temporary Protected Status, on August 29, 2005 – six years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he met at least one of the conditions described 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 April 21, 2005, the director issued a Notice of Intent to Deny (NOID) in which the applicant was requested to submit evidence of his qualification for late registration, his date of entry into the United States, and his residence and physical presence in the United States from the dates applicable to Honduran nationals. The applicant was advised to submit the requested evidence within 33 days. The applicant did not respond to the NOID during that time period or at any time thereafter.

In a Notice of Decision dated May 15, 2006, the director noted the applicant's failure to respond to the NOID and denied the application on the grounds that the record failed to establish the applicant's nationality and identity; that the applicant has been a continuous resident of the United States since December 30, 1998, and physically present in the country since January 5, 1999; and that he registered for TPS during the initial registration period from January 5 to August 20, 1999, or was qualified for late registration and filed a timely late registration application – *i.e.*, within 60 days of the end of the qualifying condition.

The applicant appealed the director's decision, and submitted a photocopy of his Honduran passport with a photo identification. Based on this document and previously submitted evidence, the AAO determines that the applicant has established his nationality and identity in accordance with the requirements of 8 C.F.R. § 244.9(a)(1).

The applicant has still not provided any evidence, however, to establish that he is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Nor has the applicant submitted any evidence that he has been continuously physically present in the United States since January 5, 1999, and continuously resident in the United States since December 30, 1998, as required for TPS applicants from Honduras under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's decision to deny the application on those grounds will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative ground 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.

ORDER: The appeal is dismissed.