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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 111 71914]

OFFICE: California Service Center

DATE: MAY 08 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. 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 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 applicant failed to establish his nationality/identity, that he was eligible for late registration, and that he was a resident of and continuously physically present in the United States since the dates applicable for TPS residents from Honduras.

On appeal the applicant states that he has been living in the United States since 1996 and submits some additional documentation as evidence of his presence in the country.

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 in the United States since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record indicates that the applicant filed his initial TPS application with the California Service Center on January 11, 2005 – nearly five and one-half 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 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 May 24, 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); his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999; as well as his nationality/identity. In response the applicant, who claims to have entered the United States without inspection on June 20, 1996, submitted photocopies of his Honduran passport and a series of money order and merchandise receipts. These materials supplemented similar documentation submitted with the application.

On July 10, 2006, the director denied the application on the grounds that the evidence submitted by the applicant failed to establish his eligibility for late registration, his nationality/identity, and that he met the continuous residence and continuous physical presence requirements for TPS applicants from Honduras.

On appeal the applicant resubmits a copy of his Honduran passport and some other materials previously in the record, and submits some additional merchandise receipts, medical records, and money transfer receipts. While the AAO determines that the passport photocopy, in addition to a photocopy of the applicant's national identity card submitted earlier with the application, establishes the applicant's identity and Honduran nationality, in accordance with the evidentiary requirements of 8 C.F.R. § 244.9(a)(1), the applicant has still submitted no evidence that he is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision denying the application on this ground will be affirmed.

The AAO also concurs with the director's decision that the evidence of record did not establish that the applicant had been continuously physically present in the United States since December 30, 1998, and continuously resident in the United States since January 5, 1999, as required for TPS applicants from Honduras under 8 C.F.R. § 244.2(b) and (c). Nor does the documentation submitted on appeal remedy these evidentiary shortcomings. None of the merchandise receipts identifies the applicant as the customer. The only documents which identify the applicant are the medical records and money transfer receipts, all of which date from 2005 and 2006. The AAO concludes that the documentation of record does not comport with the evidentiary requirements set forth in 8 C.F.R. § 244.9(a)(2) and fails to establish that the applicant has resided continuously in the United States since December 30, 1998, and has been continuously physically present in the country since January 5, 1999. Accordingly, the director's decision to deny the application 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 that burden.

ORDER: The appeal is dismissed.