



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: MAY 14 2007

[WAC 05 111 74766]

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 (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. 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 on May 17, 2006, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The director also found that the applicant had failed to establish his eligibility for late registration. The applicant filed his current appeal from that decision on June 19, 2006.

On appeal, the applicant submits a brief statement and additional documentation.

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 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.

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 in the United States 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 January 19, 2005, five years and five months after the initial registration period had ended.

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 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 denied the application on May 17, 2006, because the applicant failed to respond to request for additional evidence to establish his eligibility for late registration and his qualifying continuous residence and continuous physical presence.

On appeal, the applicant claims that he did not receive the request for evidence. However, a review of the record reveals that the request was mailed to the applicant's address of record. Furthermore, the applicant submitted a copy of the request with a TPS re-registration application submitted on June 22, 2006. In support of the appeal, the applicant submits photocopies of the following in an attempt to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite time periods:

- (1) An employment contract with [REDACTED] signed on April 29, 1999;
- (2) A Wisconsin identification card issued on May 7, 2004;
- (3) A Florida identification card issued on December 4, 1998;

- (4) An envelope date-stamped August 11, 2000, addressed to the applicant at [REDACTED]; and,
- (5) An undated document.

The applicant has submitted documentation in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821 within the initial registration period. 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). Furthermore, the documentation submitted by the applicant does not include sufficient 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 claims to have lived in the United States since January 10, 1998. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim. Only the copy of the applicant's Florida identification card issued on December 4, 1998, falls within the relevant regulatory periods for TPS offered to Hondurans. However, this single document does not establish that the applicant has continuously resided or been continuously physically present in the United States during the requisite time periods. Consequently, the director's decision to deny the application for Temporary Protected Status will 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.

ORDER: The appeal is dismissed.