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U.S. Citizenship  
and Immigration  
Services

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FILE:

[EAC 07 011 81825]

Office: VERMONT SERVICE CENTER

Date: NOV 01 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.

for  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC), 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 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 because the applicant failed to establish he was eligible for late registration. The director also found the applicant failed to establish his nationality, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

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 is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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.

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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed the current Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on October 1, 2006 - more than seven years after the initial registration period had ended.<sup>1</sup>

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 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 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 director determined that the applicant had failed to establish his: (1) eligibility for late registration; (2) nationality; and, (3) qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on March 26, 2007.

The applicant has submitted the following evidence to establish his eligibility for TPS:

1. A photocopy of his El Salvadoran birth certificate, with English translation;
2. Letters from acquaintances attesting to their knowledge of the applicant; and,
3. Photocopies of the applicant's Internal Revenue Service (IRS) Forms 1040, U.S. Individual Income Tax returns for the years 1999-2002, signed on April 11, 2007.

It is concluded that the applicant has failed to overcome the director's reasons for denial of the application. The record confirms that the applicant filed his TPS application after the initial registration period had expired. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration

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<sup>1</sup> The record reveals that the applicant filed a first (initial) Form I-821 with the California Service Center (CSC) on January 6, 2005, also after the initial registration period had ended (WAC 05 105 77692 relates). That application was denied by the CSC director on May 20, 2006, because the applicant failed to establish his eligibility for late registration. The applicant did not file an appeal from the CSC director's decision.

described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application because the applicant failed to establish his eligibility for late registration will be affirmed.

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 continuously for more than eighteen years - since December 10, 1988. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence. Nor are income tax forms for the years 1999-2002 that are post-dated in 2007. Consequently, the director's decision to deny the application on these grounds will also be affirmed.

The applicant also has not submitted sufficient evidence to establish his nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). Consequently, the director's decision to deny the application for failure to establish his nationality must 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 Temporary Protected Status 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.