



U.S. Citizenship
and Immigration
Services

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MA

[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date: NOV 09 2007

[SRC 03 153 53382]

IN RE:

Applicant:

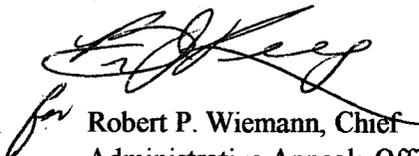
[REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is 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 for TPS because the applicant failed to establish he was eligible for late registration.

On appeal, the applicant states:

I, [REDACTED] regret that up to now I haven't been granted TPS and my Employment Authorization Card. I entered the United States on January 1990. On April 1997 I was deported due to the fact that I was illegal in this country. I came back to the United States on July 1998 and I have been residing in the United States ever since. Therefore, I am filing a Notice of Appeal. I plea to the Department of Homeland Security, U.S. Citizenship and Immigration Services, to please accept this appeal. I need my Employment Authorization Card. Please be advised that I am more than willing to comply with the requirements established by the US Citizenship and Immigration Services, in order for me to obtain my Employment Authorization card.

The applicant forwards an amended copy of page 3 of his Form I-821, Application for Temporary Protected Status, showing that he considers that he was deported during April 1997 and in July 1998 by the United States Border Patrol and not in 1995 as he initially stated. He also submits additional documents to establish his continuous residence and continuous physical presence including a copy of his daughter's birth certificate showing her birth on July 31, 1995 in Dallas, Texas and a copy of her Social Security card. He also forwards a copy of his Work Release Program contract of employment with the City of Dallas, Texas dated November 29, 1999 showing that he volunteered for and successfully completed public service employment for nine days to pay fines amounting to \$845 that he owed under five case numbers.

Section 244(c) of the Act, and the related regulations at 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.

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 shows that the applicant filed his application with Citizenship and Immigration Services on May 7, 2003.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On March 1, 2004, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence

establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country. However, he did not submit any evidence to establish that he was eligible for late initial registration.

On appeal, the applicant submitted evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status 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 the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

An alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act and the regulations at 8 C.F.R. § 244.4(a). It is noted that the record contains the applicant's Federal Bureau of Investigation Identification Record showing the following arrests:

1. Arrested on April 12, 1996 by the Dallas Sheriff's Office, for Charge 1 - [REDACTED] and Charge 2 - [REDACTED]
2. Arrested on February 24, 1997 by the Dallas Sheriff's Office, for Charge 1 - [REDACTED] Charge 2 - "FAIL ID FUG 4899" and Charge 3 - [REDACTED]
3. Arrested on April 25, 1998 by the Dallas Sheriff's Office for Charge 1 - "UCW" and Charge 2 - "FAIL ID FUG"
4. Arrested on August 13, 1999 by the Dallas Sheriff's Office for Charge 1 "F [REDACTED] and Charge 2 - "[REDACTED]

However, the final court dispositions of these arrests are not included in the record of proceeding.

The record reflects that the applicant was deported from the United States on April 16, 1997, to Mexico at Laredo, Texas, as a Mexican national based on his false claim to that nationality. He was deported from this county for a second time to Honduras on April 18, 2005, at Harlingen, Texas,

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.