



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date:

[EAC 07 033 70863]

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 Vermont Service Center. Any further inquiry must be made to that office.

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 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 03 163 54182 after the initial registration period had closed. The Director, Texas Service Center, denied that application on March 1, 2004, after that the he had failed to respond to a Notice of Intent to Deny dated October 8, 2003.

The applicant filed the current Form I-821 on November 2, 2006. The VSC Director denied the application because the applicant failed to establish he was eligible for late initial registration. The director also found that the applicant had not established that he had continuously resided in the United States since December 30, 1998 and that he had been continuously physically present in this country since January 5, 1999.

On appeal, the applicant requests that his case be re-opened to allow him to further his education and to become a productive member of society. He states that he is God-fearing, law-abiding and that he has never been in trouble with the law. He further states that his father and mother applied for TPS around 1998 during the initial registration period.

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 temporary protected status 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 parole; 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. As stated above, the record shows that the applicant filed his application with Citizenship and Immigration Services on November 2, 2006.

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.

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 relating to his father's alleged application for TPS. It is determined that 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.

Beyond the director's decision, the applicant has provided no further evidence to establish that he is a national or citizen of Honduras. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). The application must also be denied for this additional reason.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated November 25, 2002, indicating that the United States Border Patrol apprehended the applicant after he illegally entered the United States by wading across the Rio Grande River on November 24, 2002. Therefore, he cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R. §§ 244.2(b) and (c) which require his continuous residence in the United States since December 30, 1998 and his continuous physical

presence in this country since January 5, 1999. Consequently, the director's decision to deny the application for TPS is affirmed for these reasons.

It is noted that, in removal proceedings held on February 24, 2003, an Immigration Judge in San Antonio, Texas, ordered the applicant deported "in absentia" to Honduras.

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 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.