



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: Nebraska Service Center DATE: SEP 05 2007
[LIN 02 216 51318]

IN RE: Applicant: [REDACTED]

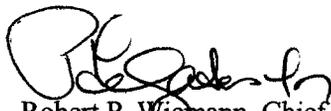
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.


Robert P. Wienmann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center (NSC), and is now before the Administrative Appeals Office (AAO) on appeal. 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 record reveals that the applicant filed his first TPS application with the Nebraska Service Center (NSC) on June 6, 2000, under Citizenship and Immigration Services (CIS) receipt number LIN 00 231 50952. The application was denied by the NSC director on January 24, 2001, because the applicant failed to establish that he was eligible for late registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on June 18, 2002. The director denied the application on February 27, 2003, because the applicant failed to establish he was eligible for late registration. The director also found that the applicant has failed to establish that he entered the United States prior to December 30, 1998, as well as his continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant filed the current appeal from that denial decision on March 25, 2003.

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.

Persons applying for TPS offered to Hondurans must demonstrate continuous residence in the United States since December 30, 1998, and continuous physical presence 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 the current application with Citizenship and Immigration Services (CIS) on June 18, 2002.

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).

On November 19, 2002, the director notified the applicant of his intent to deny the TPS application and requested evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence that he entered the United States prior to December 30, 1998 and of his continuous physical presence since January 5, 1999, and continuous residence since December 30, 1998. He was also requested to submit a photo identification and a copy of his birth certificate.

In response, the applicant submitted a copy of his birth certificate together with an English translation; a Honduran national identification card; his affidavit stating that he has been using the name of [REDACTED] while working in the United States; Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statements, for 1998 and 1999, and pay stubs, issued to [REDACTED] for the years 1998 and 1999.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on February 27, 2003. On appeal, the applicant submits photocopies of the following:

1. An identification card issued to [REDACTED] by the state of Wisconsin on August 3, 1999.
2. Earnings statements under the name [REDACTED] dated May 4, 2000, August 3, 2000, November 30, 2000, January 11, 2001, February 8, 2001, June 14, 2001, January 3, 2002, January 24, 2002, May 2, 2002, September 19, 2002, November 21, 2002, and December 5, 2002.
3. Express Mail label date stamped March 24, 2003.

The record also shows that the applicant previously submitted the following documents to support his initial TPS application:

4. An English translation of his Honduran birth certificate.
5. A Honduran birth certificate in the Spanish language.
6. A Honduran identification card issued by the Secretary of Education in the year 1991.
7. An identification card issued to [REDACTED] by the state of Wisconsin on August 3, 1999.
8. Earnings statement issued to [REDACTED] dated May 4, 2000, May 25, 2000, November 4, 1999, September 10, 1998, September 17, 1998, April 19, 1998, July 23, 1998, February 18, 1999, January 14, 1999, December 31, 1998, November 4, 1999, September 9, 1999, September 2, 1999, June 10, 1999, May 20, 1999, May 13, 1999, and April 29, 1999.

The applicant has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not establish that he met those requirements because the earnings statements and the W-2 forms for 1998 and 1999 were issued to [REDACTED] and not to the applicant. Although he signed an affidavit dated December 14, 2002, stating that he had been working in the United States under the name of [REDACTED] the affidavit is self-serving and is therefore of doubtful credibility. Consequently, the applicant has failed to establish his continuous physical presence and continuous residence in the United States during the requisite time periods.

The applicant has also 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). Therefore, the director's decision to deny the application for TPS 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 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.