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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 236 70982]

Office: California Service Center

Date: **SEP 10 2007**

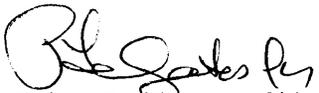
IN RE: Applicant: [REDACTED]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC). An appeal was dismissed by the Chief, Administrative Appeals Office (AAO). A motion to reopen was dismissed by the AAO. The matter is now before the AAO on a subsequent motion to reopen. The motion to reopen 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.

On May 27, 2003, the applicant filed an initial application for TPS under receipt number SRC 03 167 54278. That application was denied by the Texas Service Center (TSC) director on October 3, 2003, because the applicant failed to establish his eligibility for TPS late registration. The applicant filed an appeal on January 12, 2004, which was rejected by the AAO on February 14, 2005, because it was filed after the prescribed time period.

The CSC director denied the current application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

An appeal from the director's decision was dismissed on May 8, 2006, after the AAO concluded that the applicant was not eligible to re-register for TPS. The AAO also determined that the applicant failed to show that the current application should be accepted as a late initial registration. In addition, the AAO determined that the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States.

On June 13, 2006, the applicant submitted a motion to reopen which was dismissed by the AAO on March 30, 2007. On April 24, 2007, the applicant submitted a subsequent motion to reopen which is now before the AAO.

On motion to reopen, the applicant asserts that he has lived in the United States since 1998, and that she has answered all the requests that he has received from Citizenship and Immigration Services (CIS). The applicant also submits copies of some evidence in an attempt to establish his eligibility for TPS.

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 § 244.3;

- (e) Is not ineligible under § 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.

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 Citizenship and Immigration Services (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).

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 application with CIS, on May 24, 2005, after the initial registration period had closed.

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 Citizenship and Immigration Services (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 applicant states, in his motion, that he entered the United States in 1998, and that he has answered all requests from CIS. The applicant also submits the following evidence: a copy of an envelope postmarked April 3, 2007; a copy of a receipt dated July 9, 2003, from the Division of Driver Licenses of Miami, Florida; copies of money transfer receipts dated July 9, 2001, April 13, 2003, September 28, 2003, May 29, 2004, December 12, 2004, August 1, 2006, and February 5, 2007; a receipt dated October 19, 2001, from Girosol; copies of employee timecard reports for the periods: July 26, 2002 to August 1, 2002, August 9, 2002 to August 15, 2002, and January 10, 2003 to January 16, 2003; copies of earnings statements from Florida Erection Service, Incorporated, for the periods August 30, 2004 to September 5, 2004, December 13, 2004 to December 19, 2004, April 25, 2005 to May 1 2005, September 19, 2005 to September 25, 2005, November 21, 2005 to November 27, 2005, and July 3, 2006 to July 9, 2006; copies of billing statements from Safeway Premium Finance, Incorporated, dated February 28, 2005 and March 28, 2005; and copies of cash register and money order receipts bearing no name.

The applicant's motion to reopen consists of some evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. However, 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). As such, this issue on which the underlying decision was based has not been overcome on motion.

In addition, the Chief of the AAO concluded that the applicant did not establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

A review of the evidence reflects that the applicant provides several cash register and money order receipts that do not bear any name. Therefore, this evidence has very little, if any, evidentiary weight. It cannot be ascertained if, in fact, these are actually the applicant's receipts. In addition, the remaining evidence all post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States.

The applicant has not submitted sufficient credible evidence to establish his qualifying 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 has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2 (b) and (c). Consequently, this issue on which the underlying decision was based also has not been overcome on motion.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated March 30, 2007, is affirmed.