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



U.S. Citizenship
and Immigration
Services

M,

[REDACTED]

FILE: [REDACTED]
[EAC 06 258 80046]

Office: VERMONT SERVICE CENTER Date: SEP 10 2007

IN RE: [REDACTED]

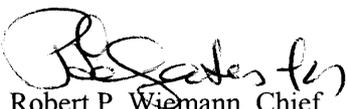
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254

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 Director, Vermont Service Center (VSC), denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of Honduras who seeks 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 that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts that he did not initially apply for TPS because he was out of status and was afraid that, if he did apply, he would be deported.

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.

The phrase continuously physically present, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase continuously resided, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on 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).

The record reflects that the applicant filed an initial TPS application [WAC 05 141 74711] on January 30, 2005-over five years after the close of the initial registration period for Hondurans. He filed this application with the California Service Center (CSC). The director of the CSC accepted the application under the late filing provision in 8 C.F.R. § 244.2(f)(2). In support of his application, the applicant only submitted a copy of his passport and his translated birth certificate. In response to the director's request for further evidence, the applicant submitted another copy of his passport; a 2006 lease agreement; an employment verification letter; an application for a Tax Identification Number; and, tax returns from 2004 and 2005. On August 9, 2006, the director of the CSC determined that the applicant had failed to establish he was eligible for late registration and denied the application.

The applicant filed the current TPS application on June 4, 2006, with the VSC. The director of the VSC accepted the application under the late filing provision in 8 C.F.R. § 244.2(f)(2). The only document the applicant submitted in support of this application was a CIS fingerprint appointment notice dated June 1, 2006.

On January 23, 2007, the director of the VSC determined that the applicant had failed to establish he was eligible for late registration. In addition, the director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence, had failed to establish his nationality, and denied the application.

On appeal, the applicant reasserts his claim, and submits a letter from the Internal Revenue Service (IRS) dated June 4, 2004 and proof of the U.S. citizenship of his twin daughters, born on June 21, 2003, in Prince George, Maryland.

This evidence does not overcome the applicant's failure to file his TPS application within the initial registration period. The applicant's failure to initially apply for TPS because he had incorrect information and he feared deportation is not a basis for late registration under the regulations. 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). Consequently, the director's decision to deny the application on this ground will be affirmed.

Furthermore, the evidence fails to establish the applicant's qualifying residence and continuous physical presence. The birth certificates of his daughters are not proof of the applicant's qualifying continuous residence and continuous physical presence. They are merely proof that his two daughters were born in the United States. The lease and the documents relating to his taxes only establish continuous residence and physical presence since 2004. The employment verification letter signed by [REDACTED] can only be given partial weight. [REDACTED] asserts that the applicant has worked for Maryland Stone Source since April 21, 2003, but does not submit independent employment records or an IRS Form W-2, Wage and Tax Statement, to corroborate this date. The record does contain a Form W-2 indicating that the applicant worked for Maryland Stone source in 2005. [REDACTED] states that the applicant has worked for him since 2003, but that he has known the applicant since May of 2001. Little weight can be given to this part of [REDACTED]'s letter as it does not provide the applicant's date and place of birth, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence, as required by 8 C.F.R. § 244.9(a)(2)(vi). Consequently, the director's decision to deny the application on this ground will also be affirmed.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c).

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 TPS 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.