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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:



Office: Texas Service Center

Date: **SEP 10 2007**

[SRC 03 169 54388]

IN RE:

Applicant:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). A subsequent appeal was dismissed by the Director, now Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a fifth 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.

The director denied the application on September 16, 2003, because the applicant failed to establish he was eligible for late registration.

An appeal from the director's decision was dismissed on November 2, 2004, after the Director, now Chief, of the AAO concluded that the applicant failed to establish his eligibility for TPS late initial registration. On November 29, 2004, the applicant submitted a motion to reopen which was denied by the director on December 16, 2004. The applicant filed a subsequent motion to reopen on January 27, 2005, which was denied by the TSC director on March 17, 2005.

On April 12, 2005, the applicant filed a third motion to reopen which was dismissed on April 3, 2006, after the AAO concluded that the applicant failed to establish his eligibility for TPS late registration. The AAO also concluded that the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. On April 26, 2006, the applicant filed a fourth motion to reopen which was dismissed by the AAO on April 30, 2007. The AAO determined that the issues on which the underlying decisions were based had not been overcome. On May 17, 2007, the applicant files yet another motion to reopen.

On motion to reopen, the applicant asserts that he has lived in the United States since 1998, and that he has answered all requests for documents 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 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 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).

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 applicant's motion to reopen consists of some documentation 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.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

Along with his motion, the applicant provides the following copies of documentation: cash register and money order receipts which do not bear any name; a letter from the Internal Revenue Service (IRS); a receipt from the Division of Driver Licenses, Miami, Florida, dated May 29, 2004; his vehicle's title issued on February 20, 2007; his auto insurance bill dated May 7, 2007; money transfer receipts from Vigo bearing the name of [REDACTED] [REDACTED] dated January 16, 2003, to February 27, 2005; a medical report dated in 2004; a letter dated December 9, 2004, from [REDACTED]; a letter dated April 21, 2004, from [REDACTED]; a receipt dated January 31, 2005, from Sears Auto Center; and his IRS U.S. Individual Income Tax Returns for the years from 1999 to 2005.

The cash register and money order receipts submitted by the applicant from various merchants do not bear any name; therefore, have little, if any, evidentiary weight in this proceeding. Further, although the applicant's tax documents may suggest that he was in the United States since 1999, the burden is on the applicant to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. It is also noted that he did not timely file his tax returns as indicated by the letters from the IRS regarding penalties and interest on underpayment of taxes for past years. The remaining evidence post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient credible evidence to establish his 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). As such, this issue on which the underlying decision was based has also not been overcome on motion.

It is also noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside any remedies remaining available to him.

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 April 30, 2007, is affirmed.