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U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 06 253 78318]

Office: VERMONT SERVICE CENTER

Date: SEP 24 2007

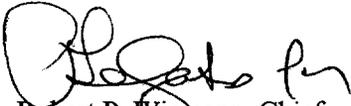
IN RE: Applicant: [REDACTED]

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 and 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 his qualifying continuous residence and continuous physical presence in the United States and had failed to establish that he was a national of Honduras.

On appeal, the applicant asserts that he is eligible for late registration as the child of two TPS registrants. He submits previously submitted documents.

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 continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The initial registration period for Hondurans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 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 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 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 record reflects that the applicant filed his initial TPS application on May 30, 2006—seven years after the close of the initial registration period for Hondurans. In support of his application, the applicant submitted documentation indicating that he was born on February 23, 1989, to [REDACTED] a TPS registrant [REDACTED] and [REDACTED] also a TPS registrant [REDACTED] (relates). He also submitted the following photocopied evidence in an attempt to establish his qualifying continuous residence and continuous physical presence:

1. his photo identification card, from [REDACTED] dated 2005-2006;
2. his immunization record, showing immunizations in 2005 and 2006; and,
3. two progress reports, from [REDACTED], dated December 16, 2005 and February 3, 2006.

On January 22, 2007, the director informed the applicant that it appeared he was eligible for late registration but requested that the applicant submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant did not respond to the director's request.

On March 7 2007, the director denied the application, finding that the applicant had failed to establish his qualifying continuous residence and continuous physical presence and that he had failed to establish that he is a citizen of Honduras. On appeal, the applicant reasserts his eligibility for TPS based on his relationship to his parents. He submits previously submitted documents in addition to a letter from his church, an affidavit from [REDACTED], and two more recent high school progress reports.

Regarding identity and nationality, the applicant submitted a copy of his Honduran birth certificate and a copy of his photo identification document from William Floyd High School. Therefore, he has established his identity and nationality under 8 C.F.R. § 244.9(a)(1)(ii). The director's decision to deny the application on this ground is therefore withdrawn.

The applicant is the child of an alien who is currently eligible to be a TPS registrant and is, therefore, eligible to file a late application for TPS under 8 C.F.R. § 244.2(f)(2)(iv). However, a late-filing child of a TPS-eligible parent must meet the same continuous residence and continuous physical presence requirements as all other TPS applicants.

The evidence submitted by the applicant fails to establish his qualifying residence and continuous physical presence. The school and immunization records only show residence and physical presence from 2005 to 2007. The letter from [REDACTED] can be given little evidentiary weight and has little probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the letter does not explain the origin of the information to which it attests, nor does it provide the address where the applicant resided during the period of his involvement with the church. The affidavit from [REDACTED] also cannot be given significant evidentiary weight. It does not provide the affiant's address, date and place of birth, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence in the United States as required by 8 C.F.R. § 244.9(a)(2)(vi). In addition, the church letter and affidavit are not accompanied by evidence to corroborate the applicant's qualifying residence and continuous physical presence. The applicant claims to have entered the United States in January 1998. He was approximately nine years old at the time. He submits records of school enrollment from 2005 to 2007 but does not provide any reliable, independent documentation of his residence and physical presence from 1998 to 2005. The applicant has not submitted sufficient credible evidence to establish that the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). The director's decision to deny the application for TPS on these grounds 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 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.