



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: **SEP 24 2007**

[EAC 06 255 79980]

IN RE:

Applicant:



APPLICATION:

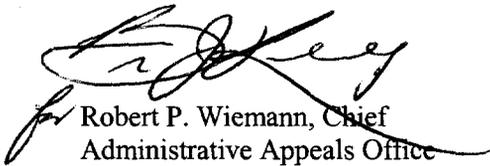
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal 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 because the applicant had failed to establish that he: (1) was eligible for late registration; and (2) had continuously resided in the United States since December 30, 1998, and had been continuously physically present from January 5, 1999, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. 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.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record shows that the applicant filed his TPS application on June 12, 2006.

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).

In a Notice of Intent to Deny dated December 4, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director determined that in response, the applicant had failed to establish that he was eligible for late registration and denied the application on February 27, 2007.

On appeal, the applicant asserts that he had previously submitted a TPS application on August 30, 1999, with proper fee and all required documentation, but, to date, he does not know what happened to the application because he never received any notice from CIS.

The applicant, however, has failed to submit any evidence to corroborate his claim that the application, with fee, was in fact received by CIS. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Moreover, the filing of the TPS application on August 30, 1999, as claimed, would also have been filed after the initial registration period had closed.

The applicant further asserts, on appeal, that his wife, [REDACTED] has been granted TPS. He submits a copy of a marriage certificate indicating that the applicant and [REDACTED] were married in Fairfax, Virginia, on March 21, 2007, and copies of Employment Authorization Cards issued to [REDACTED] under category [REDACTED]

While the regulations may allow spouses of aliens who are TPS-eligible to file their applications after the initial registration period had closed, the applicant, in this case, was not married to [REDACTED] during the initial registration period as required by 8 C.F.R. § 244.2(f)(2).

The applicant has failed to establish that he has met the requirements of 8 C.F.R. § 244.2(f)(2)(iv), or any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the TPS application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and continuous physical presence from January 5, 1999, to the date of filing the TPS application.

In a Notice of Intent to Deny (NOID) dated December 4, 2006, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence during the requisite periods. The director reviewed and listed in his decision the evidence submitted by the applicant in response to the NOID, and concluded that the evidence did not have sufficient reliability and weight, alone, to establish eligibility for TPS, and that the statements or affidavits provided to establish residence and physical presence were not supported by any other corroborative evidence. The director, therefore, denied the application on February 27, 2007.

On appeal, the applicant resubmits copies of statements from [REDACTED], previously furnished and addressed by the director in his denial decision. He also submits:

1. Copies of rent receipts dated January 5, 2000; December 5, 2001; and December 1, 2002.
2. A statement from [REDACTED] president of Five Star French Doors and Windows, indicating that the applicant has been working for him since January 2001.
3. A statement dated May 13, 2006, from [REDACTED] indicating that he has known the applicant since January 2000 because they were neighbors and close friends.
4. A statement dated May 11, 2006, from [REDACTED] indicating that he has known the applicant, who is his co-worker, since 2000.

The handwritten rent receipts (No. 1 above) are generic and have little evidentiary value. Further, the applicant failed to submit supporting evidence, such as a copy of a rental agreement or a notarized affidavit from his landlord. It is also noted that the rent receipt for January 5, 2000 was altered. The employment letter (No. 2 above) has little evidentiary weight or probative value as it did not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter is not in affidavit form, it was not dated, it was not attested to by the employer under penalty of perjury, it did not provide the address or addresses where the applicant resided during the period of his employment, the exact period(s) of employment, the periods(s) of layoff, if any, and the applicant's duties with the company. Moreover, the letter was not supported by any other corroborative evidence, such as pay statements.

[REDACTED] (Nos. 3 and 4 above) stated their acquaintances with the applicant only since as early as January 2000, after the requisite period required to establish residence and physical presence. Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements were not supported by any other corroborative evidence, although the director listed on the NOID the acceptable evidence he could submit to establish eligibility. The applicant claimed to have lived in the United States since July 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claim; however, no such evidence has been provided.

The applicant has failed to establish that he has met the criteria for continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will also 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.