



**U.S. Citizenship  
and Immigration  
Services**

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[REDACTED]

FILE: [REDACTED]  
[EAC 07 177 70403]

Office: VERMONT SERVICE CENTER

Date: FEB 28 2008

INRE: Applicant: [REDACTED]

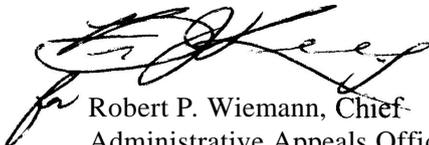
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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, Vennont 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 claims to be 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 determined that the applicant was eligible for late initial registration, but denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States and failed to submit a copy of his identity document.

On appeal, counsel for the applicant asserts that the applicant is eligible for late registration as the child of an alien who is currently eligible for TPS and submits no additional documentation.

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 resided continuously 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 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 March 26, 2007 - over seven years after the close of the initial registration period for Hondurans. The only documentation the applicant submitted in support of his application was his birth certificate, with corresponding translation.

On July 25, 2007, the director requested that the applicant submit documentation to establish that he was eligible to take advantage of the late initial filing provisions under the TPS regulations. The director also requested that the applicant submit evidence to establish his qualifying continuous residence and continuous physical presence. Finally, the director requested that the applicant submit a photo identity document.

In response to the director's request, the applicant submitted documentation establishing that he was a TPS registrant with alien registration number [redacted] on May 16, 1993, to [redacted].

On September 19, 2007, the director denied the application, finding that the applicant had established his eligibility for late initial registration but that he had failed to establish his qualifying continuous residence and continuous physical presence and that he had failed to submit a photo identity document.

On appeal, counsel for the applicant reasserts the applicant's eligibility for TPS based on his relationship to his mother and submits no additional documentation.

Regarding identity, the applicant still has not submitted a photo identity document. The birth certificate the applicant submitted is sufficient to establish his Honduran nationality, but not his identity under 8 C.F.R. § 244.9(a)(1)(ii). The director's decision to deny the application on this ground is therefore affirmed.

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(t)(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 applicant has not submitted any evidence to establish the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). Furthermore, the applicant asserts and the record reflects that the applicant entered the United States on January 23, 2006 - seven years after the qualifying physical presence date. Since the applicant did not enter the United States until January 23, 2006, he cannot satisfy the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). While the AAO is sympathetic to the applicant's situation, none of the documentation submitted overcomes his failure to satisfy the TPS requirements for continuous residence and continuous physical presence. There is no exceptional circumstance exception for continuous residence and continuous physical presence under the Act or the regulations. The director's decision to deny the application on these grounds will also be affirmed.

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.