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U.S. Citizenship
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Services

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FILE:

[REDACTED]
[EAC 06 265 70975]

OFFICE: VERMONT SERVICE CENTER

Date: **JAN 03, 2008**

INRE:

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, Vennont Service Center, and 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 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 failed to establish that 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 states that he has been in the United States since 1997 and has never been in any kind of trouble. The applicant states that it is difficult to prove his residency and physical presence because he has never been stopped by a Citizenship and Immigration (CIS) official.

Section 244(c) of the Act, and the related regulations in 8 c.P.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.P.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 designation of TPS for Hondurans has been extended several times, 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 reveals that the applicant filed this application with CIS on June 21, 2006.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. 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 submitted no documentation with his Form 1-821, Application for Temporary Protected Status, to establish his eligibility for late registration. On March 28, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(£)(2). The applicant was specifically requested to explain his August 6, 2005 apprehension by the Border Patrol as he attempted to cross the border without inspection near Brownsville, Texas. The applicant alleged at that time that he had left his home in Honduras on or about July 6, 2005. The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 1, 2007. The applicant does not address this issue on appeal.

The applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. 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(£)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

In an attempt to establish his qualifying continuous residence and continuous presence, the applicant submitted the following documentation with his Form 1-821 application:

1. A copy of a sales receipt from [redacted] in Miami, Florida. The receipt is dated October 1, 2005 and shows the applicant as the customer with an address in Miami.
2. Copies of Western Union money order receipts dated November 8, 2005, December 8, 2005, and January 23, 2006 showing that they were sold at stores in Miami and showing the applicant as the sender with an address in Miami.
3. A copy of a MoneyGram money order receipt dated December 12, 2005, showing the applicant as the sender with an address in Miami.
4. Copies of various purchase and money order receipts that do not contain a name or address of the purchaser. Therefore, they are not probative evidence of the applicant's presence and residence in the United States.

The applicant also submitted a partial copy of an electric bill and a copy of a January 5, 2006 money order receipt that relate to other individuals. The applicant did not allege or provide evidence to establish his ties to these individuals.

As stated above, on March 28, 2007, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. Copies of money order receipts from a vendor in Miami and showing the applicant with an address in Miami. The receipts are dated in June and July 2006, and January, February and March 2007.
2. Copies of receipts from ██████████ dated May 6, 2006 and December 30, 2006, showing the applicant as the customer.
3. A copy of a September 18, 2006 receipt issued to the applicant by the Miami-Dade County Public Schools.
4. A copy of a February 17, 2007 receipt from a rental receipt pad. The receipt, issued to the applicant and signed "Omor" indicated that it was for a "legal fee." The receipt does not show an address.

The applicant also provided a cash receipt that shows his name but does not indicate a vendor or address, and copies of the various purchase and money order receipts previously submitted that do not contain names or addresses.

The director concluded that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant submits the following documentation:

5. Copies of Western Union money order receipts, showing the applicant as the remitter with an address in Miami. The receipts are dated February 10, 1999, May 20, 1999, July 25, 1999, January 30, 2000, September 15, 2000, January 20, 2001, March 10, 2001, October 1, 2001 and June 10, 2002.
6. Copies of MoneyGram money order receipts, showing the applicant as the sender with an address in Miami. The receipts are dated February 10, 2003, April 1, 2003, August 30, 2003, April 20, 2004, October 10, 2004, July 1, 2005, and December 20, 2005.

The Western Union form used shows a copyright date of 2000-2002, with a revision date of April 2002. Therefore, the form could not have been used to record purchases of money orders in 1999, 2000 and 2001. The date on the MoneyGram form used indicates that it was revised in January 2006. Therefore, it could not have been used as money order purchase receipts in 2003, 2004 or 2005. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the

record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant submits no objective evidence to explain or justify the use of these forms prior to their issue dates. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that he has met the qualifying residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS 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 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.,