



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JAN 16 2008
[WAC 06 122 70045]

IN RE: Applicant: [REDACTED]

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 Director, California Service Center, denied the application. The applicant filed a Form I-290B, Notice of Appeal to the Administrative Appeals Office, which the director rejected as untimely filed appeal. The matter is now before the Administrative Appeals Office (AAO). The AAO hereby withdraws the director's decision based on the director's lack of jurisdiction over the matter. *See* 8 C.F.R. § 103.3(a)(2)(iv) and 8 C.F.R. § 103.3(a)(v)(B)(2). Upon review, the AAO enters its own decision dismissing the appeal.

The applicant claims to be a citizen of Honduras who is applying for 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 rejected the applicant's appeal as untimely filed. However, pursuant to 8 C.F.R. § 103.3(a)(2)(iv) and 8 C.F.R. § 103.3(a)(v)(B)(2), the director lacked jurisdiction over the appeal. Furthermore, the record reflects that the denial notice was not initially mailed to the applicant at his address of record. The service center corrected this error and mailed the denial notice and notice of appeal to the applicant at his address of record on July 23, 2006. The applicant filed his appeal on August 21, 2006. Therefore, his appeal was timely filed

On appeal, the applicant states that he has lived in the United States since 1997 and asks for an opportunity to be legal in this country.

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.

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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on January 25, 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 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).

On March 30, 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 applicant was also requested to submit evidence establishing his qualifying residence and 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 June 6, 2006.

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 Form I-821, 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(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence or continuous physical presence during the requisite time periods. Therefore, the application also must be denied for these reasons.

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.