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

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FILE:



Office: VERMONT SERVICE CENTER

Date: JAN 22 2008

[EAC 06280 75993]

INRE:

Applicant:

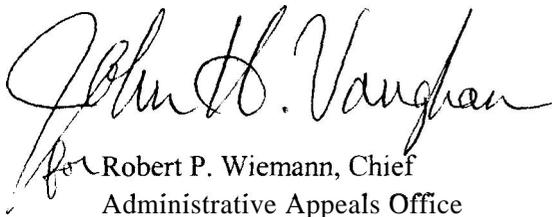


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vennont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 he was eligible for late registration. The director also denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant asserts his eligibility for TPS and submits some evidence in an attempt to establish such claim.

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, 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 section 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 conditions described in paragraph (1)(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.

Honduran nationals applying for TPS 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 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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The applicant – who was born in Honduras on November 26, 1981, and claims to have entered the United States in 1998 – filed his TPS application with Citizenship and Immigration Services (CIS) on July 6, 2006 – nearly seven years after the close of the initial registration period.

On December 13, 2006, the applicant was requested to submit evidence to establish his eligibility for TPS late registration. In addition, the applicant was requested to submit evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. The applicant did not respond to the request for evidence. Accordingly, the director denied the application on February 5, 2007.

On appeal, the applicant states that he is a child of an alien currently eligible for TPS. The applicant also provides copies of the following documentation: the Employment Authorization Document (EAD), Social Security card, and State of North Carolina Identification Card of his mother, _____ the Employment

Authorization Document (EAD) and Social Security card of his father, _____; the applicant's Honduran birth certificate along with an English translation; his Honduran passport and Florida State Identification Card issued in 2005 and 2006 respectively. his ASC Appointment Notice dated July 28, 2006; a billing statement dated "01/10/1998" from _____ FHC, Incorporated; and three hand-written rent receipts from the applicant dated September 21, 1998, October 10, 1998, and November 24, 1998, none of which identify an address.

The first issue in this proceeding is whether the applicant has established his eligibility for TPS late registration. To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above. The record of the applicant's father, _____ shows that his TPS application was approved on June 17, 2000. Thus, the applicant has established his eligibility for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv) as the child of a currently eligible TPS registrant. That ground for denial has therefore been overcome.

In addition to meeting a condition for late registration, however, the applicant must also establish his continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. There is no documentation in the record showing that the applicant was in the United States at any time between the end of 1998 and July 2006, when his TPS application was filed. Furthermore, the applicant's father stated in each of the TPS applications he filed on July 14, 1998, July 3, 2000, and June 10, 2001, that the applicant was residing in Honduras at those times.

Thus, the applicant has failed to establish that he has been continuously physically present in the United States since December 30, 1998, and continuously physically present in the United States since January 5, 1999, as required for Honduran nationals under 8 C.F.R. § 244.2(b) and (c). Therefore, 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.