



U.S. Citizenship  
and Immigration  
Services

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FILE: Office: VERMONT SERVICE CENTER Date: SEP 03 2008  
[EAC 08 067 51762, appeal]  
[EAC 07 296 73058]

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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. 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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, after the initial registration period had closed. The director denied that application on December 13, 2007, after determining that the applicant had failed to establish he was eligible for late initial registration. The director also found that the applicant had not established that he had been continuously physically present in the United States since January 5, 1999 or that he had continuously resided in this country since December 30, 1998.

On appeal, counsel states the applicant has provided evidence of residence in the United States long before January 5, 1999 to August 20, 1999, and that he had been employment authorization under "LULAC." Counsel argues that the applicant has provided sufficient evidence that he had been paroled back into the U.S. after a brief visit to Honduras on January 8, 1993. Counsel provides additional documentation of continuous residence and continuous physical presence for consideration.

On appeal, counsel stated that he would submit a brief and/or additional evidence to the AAO within 30 days; however, he has not done so. Therefore, the record is considered complete.

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 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 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 (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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed his application with Citizenship and Immigration Services on July 11, 2007.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On October 2, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country. However, he did not submit any evidence to establish that he was eligible for late initial registration.

On appeal, the applicant submits evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his application for TPS 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 the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

Evidence submitted by the applicant to show that he satisfies continuous residence and continuous requirements includes a copy of his Social Security Statement dated September 10, 2007, showing that he worked each year in the United States and had earnings from 1990 through 2006, copies of income tax returns from 1990 to 2006, and a copy of a Form I-94, Record of Arrival, showing the applicant was paroled back into the United States in the public interest on June 6, 2000, after a brief visit abroad. He also included copies of pay stubs from employers, various bills including utility bills and State issued driver's licenses issued to him during his period of residency and physical presence in this country.

It is determined that the applicant has provided convincing evidence to establish his continuous residence and continuous physical presence during the required time periods. 8 C.F.R. § 244.2 (b) and (c). However, the application cannot be approved because it was not filed during the initial registration period and the applicant has not established his eligibility for late registration.

Beyond the decision of the director, the applicant has provided no further evidence to establish that he is a national or citizen of Honduras. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). The application must also be denied for this additional reason.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.