M1

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Vermont Service Center Date: APR 12 2004

IN RE: Applicant: [redacted]

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

ON BEHALF OF PETITIONER: 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.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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 seeking 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 failed to establish that he met the qualification for late initial registration, as he filed his TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The applicant filed his first application on July 3, 2002. The director also noted the applicant's evidence concerning his continuous physical presence and residence under the alias of Antonio Salguero.

On appeal, the applicant states that he did not file a TPS application during the initial registration period because he feared deportation.

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 as 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.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

(1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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 December 12, 2002, the applicant was provided the opportunity 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 residence in the United States since December 30, 1998, and his physical presence in the United States from January 5, 1999. In addition, the applicant was instructed to provide information proving that he and Antonio Salguero are the same person. The applicant, in response, provided evidence in an attempt to establish that he used the name of Antonio Salguero as an alias. The applicant also provided documentation establishing his residence and physical presence in the United States. He did not present evidence of his eligibility for late registration. The director therefore denied the application.

On appeal, the applicant states that he did not file an application because he feared deportation. According to the applicant, he did not submit an application until he was completely sure his friends were getting TPS.

The applicant, however, 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 temporary protected status will be affirmed.

Beyond the director's decision, it should be noted that the applicant failed to establish that he and are the same person. In response to the notice of intent to deny, the applicant submitted photocopies of sworn statements from and he applicant also provided copies of IRS Form W-2, Wage and Tax Statements, pay stubs, an earning statement and Western Union receipts in an attempt to establish that he used the name of as an alias. In the letters, all of the affiants, including Mr. he applicant's brother, asserted that they know the applicant and know that he used the name Antonio Salguero as an alias. However, the affiants have not demonstrated such knowledge independent of their personal relationships with the applicant. If their knowledge is based primarily on what the applicant told them about his use of an alias, then these letters are essentially extensions of the applicant's personal testimony rather than independent corroboration of that testimony. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's residence in the United States.

The IRS Form W-2, Wage and Tax Statements, provided in the applicant's name appear consistent throughout, with the same type font for both the earnings information and the applicant and employer's information. However, in the IRS Form W-2 statements in another name, the employee and employer information are a different type font than the rest of the document. In addition, the name on those documents is "Antonio Salevero", not "Antonio Salguero", further reducing their persuasiveness. Similarly, the earning statement submitted in the name of Antonio Salguero also features a different type of type font for the name. Along with the 1997 Form, W-2, Wage and Tax Statement, in the Salguero name, it also features an address different from the one the applicant claimed as his place of residence since his arrival in this country. Consequently, the document is of little or no probative value.

The pay stubs provided by the applicant are all in the name of the applicant, while the receipts furnished are all in the name of Antonio Salguero. Therefore, these documents do not establish the applicant's use of an alias. On appeal, the applicant resubmits documentation previously provided in an attempt to establish his use of the name Antonio Salguero as an alias.

An alien applying for temporary protected status 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.