**U.S. Department of Homeland Security**

Citizenship and Immigration Services

*ADMINISTRATIVE APPEALS OFFICE*
*CIS, AAO, 20 Mass, 3/F*
*425 I Street, N.W.*
*Washington, D.C. 20536*

[redacted]

**Identifying data deleted to prevent clearly unwarranted invasion of personal privacy**

FILE: [redacted] Office: Texas Service Center Date: FEB 11 2004
SRC 02 212 54473

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

**PUBLIC COPY**

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

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

**DISCUSSION:** The application was denied by the Director, Texas 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. § 1254a.

The director determined that the applicant failed to provide all of the evidence requested. She further determined that the applicant failed to provide evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant states that he has been trying to register for TPS since the initial registration period. He further states that during the initial registration period in 1999, he submitted an application, and that the only evidence he has to support his claim is a certified mail receipt and a copy of the money order for $175 which was attached to a reminder letter. The applicant claims that his application filed in 2000 was rejected because he assumes his first application was not found. He requests that he be allowed to re-register since he has already sent an application.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 condition described in paragraph (f)(2) of this section.

The term *continuously resided* as used in 8 C.F.R. § 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998. 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.

The term *continuously physically present* as used in 8 C.F.R. § 244.1 means actual physical presence in the United States for the entire period specified in the regulations and since January 5, 1999. 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 record reflects that the applicant filed his TPS application on June 26, 2002. In a notice of intent to deny dated October 3, 2002, the applicant was requested to submit evidence to establish that he: (1) has continuously resided in the United States since December 30, 1998; (2) has been continuously physically present since January 5, 1999; and (3) was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, in her decision to deny the application on December 10, 2002, noted that in response to her request of June 26, 2002, the applicant submitted a letter explaining the unfortunate situation regarding his TPS application; however, the applicant did not send the evidence requested. Nor did he send proof of his eligibility to file for late initial registration.

Aliens applying under the provisions for late initial registration must provide evidence to prove that they are eligible because during the initial registration period of January 5, 1999 through August 20, 1999, they fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

The applicant, on appeal, submits no evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

Additionally, the applicant failed to submit evidence to establish that he met the criteria for continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). The director's decision to deny the application on these grounds will also be affirmed.

Furthermore, while the applicant claims that he had previously applied for TPS, no evidence was furnished to corroborate his claim that the application, with fee, was in fact received by the Service. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg. Comm. 1972).

The burden of proof is upon the applicant to establish that he 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. The appeal will be dismissed.

**ORDER:** The appeal is dismissed.