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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, DC 20536

[redacted]

File: [redacted] [LIN 02 235 50204]

Office: Nebraska Service Center

Date: JAN 02 2004

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 indicated on his application that he entered the United States in February 1996 without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant failed to establish he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods.

On appeal, the applicant provided additional evidence in support of his claim of qualifying residence and physical presence in the United States.

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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, 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. 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 the Immigration and Naturalization Service, now CIS, on July 1, 2002.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he 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).

On November 19, 2002, 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 January 22, 2003. On appeal, the applicant submitted additional evidence in an attempt to establish his qualifying residence and physical presence in the United States.

The evidence submitted by the applicant does not mitigate his failure to file his Application for Temporary Resident Status within the initial registration period. The applicant has not submitted <u>any</u> evidence to establish that he has met <u>any</u> of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

In support of his application, the applicant provided the following documentation:

1. Copies of receipts for money orders purchased by **Alexis Hernandez** in Virginia on January 15, 1998, October 8, 1998, May 21, 1999, and June 18, 1999;
2. Copies of the backs of envelopes bearing "1998" and "1999" stamps;
3. A copy of a pay-stub issued to **Alexis Hernandez** on September 22, 2000, by Mica of VA, Inc.;
4. A copy of the applicant's passport issued by the Honduran Embassy in Washington, DC, on November 14, 2000;
5. A copy of the applicant's Honduran Driver's License;
6. A copy of an envelope bearing an Illinois address for **Alexis Hernandez** and a post-mark from 2000;
7. A tax form and receipt from the state of Illinois dated April 16, 2002;
8. A copy of an insurance identification card issued to the applicant by Universal Casualty Company on April 18, 2002;
9. A copy of an Illinois Vehicle Identification Card issued to the applicant on April 22, 2002;
10. A copy of a receipt for a money order purchased by the applicant in Illinois in May 2002;
11. Copies of envelopes bearing **Alexis Hernandez'** Illinois and Virginia addresses and illegible post-marks; and,
12. A copy of an envelope bearing a New York address for the applicant and an illegible post-mark.

As stated above, the applicant was requested on November 19, 2002, to submit evidence establishing his qualifying residence and physical presence in the United States. In response, the applicant submitted the following documentation:

13. A letter from Josefa Rodriguez who stated that she had known the applicant since February 1998;
14. A copy of a statement for the period ending October 6, 2002, from Harris Bank reflecting the applicant's Illinois address; and,
15. A copy of a receipt for a money order purchased by the applicant in Illinois on November 21, 2002.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application on January 22, 2003. On appeal, the applicant submitted the following documentation:

16. A letter from the payroll administrator for Smith-Midland Corporation, Midland, Virginia, who stated that **Alexis Hernandez** worked there from August 6, 1997, through December 9, 1997;

17. A letter from the office manager of Fiberglass Engineering Company, Midland, Virginia, who stated that **Alexis Hernandez** had worked there from September 8, 1998, through April 15, 1999;
18. A copy of an envelope bearing a New York address and a January 8, 1999, post-mark.
19. Copies of receipts for money orders purchased by **Alexis Hernandez** in Virginia on January 22, 1999, October 22, 1999, and December 13, 1999;
20. A copy of an Illinois Vehicle Identification Card issued to **Alexis Hernandez** on May 8, 2000;
21. A copy of a Certificate of Title of a Vehicle issued to **Alexis Hernandez** by the state of Illinois on June 8, 2000; and,
22. A survey letter to the applicant from Harris Banks requesting the applicant's response by November 15, 2002.

The documents in Nos. 1, 3, 6, 11, 16, 17, 19, 20, and 21 above will not serve to establish the applicant's eligibility because they were issued to Alexis Hernandez. While the applicant indicated on his application that he had used the alias Alexis R. Hernandez, he has failed to submit any evidence to corroborate this claim. 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).

Absent the evidence relating to Alexis Hernandez, the applicant has submitted only two documents (Nos. 13 and 18 above) relating to his residence and physical presence in the United States before November 14, 2000. The photocopied envelope detailed in No. 18 above appears to have been altered as the applicant's name appears on a label that has been affixed over the original name on the envelope. Therefore, this photocopy will not serve to establish the applicant's claim of eligibility.

The statement in No. 13 above regarding the applicant's claimed presence in the United States is not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or presence.

In addition, it is noted that the applicant's Driver's License (No. 5 above) was issued to him in Honduras on December 7, 2000. This evidence contradicts the applicant's claim to have resided in the United States since 1996.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or

reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to submit any objective evidence to explain or justify the discrepancy relating to the date of issuance of his driver's license or the apparent alteration of the document in No. 18 above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on this ground will also be affirmed.

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.