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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship
and Immigration
Services

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: MAY 11 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

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 M. Toney for
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 is seeking 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 he determined that the applicant had failed to establish that he had entered the United States prior to December 30, 1998 and that he had been continuously physically present since January 5, 1999. The director also determined that the applicant had not submitted evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999.

On appeal, the applicant states that he has lived at the same address for the past three years and he does not understand why the notice of intent to deny his application for TPS was returned by the postal service. The applicant states that he will respond immediately once he is informed of the contents of the director's notice of intent to deny his 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 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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 in the United States 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 time period.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The initial registration period for Hondurans was from January 5, 1999, through August 20, 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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid nonimmigrant 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 record of proceeding confirms that the applicant filed his application for TPS on June 27, 2002, after the initial registration period had closed. The applicant stated that he had used the name as an alias. In support of the application, he submitted a copy of a certificate issued to a on December 16, 1998, for attendance at an E.S.L. Upper Beginning English course at the Adult Education Department of the College of Lake County, Grayslake, Illinois. The applicant also submitted a copy of a January 14, 1997 bill from ComEd, addressed to Neither the location of the utility company, nor the city and state for the address where the electric service was provided, are shown on the statement.

On December 17, 2002, the applicant was provided with the opportunity to submit: (1) evidence to show that he had continuously resided in the United States since December 30, 1998; (2) evidence to show that he had been continuously physically present in the United States since January 5, 1999; and (3) evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The applicant was also requested to submit evidence that he and are one and the same person. The notice was returned by the postal service marked "attempted, not known."

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on February 20, 2003. On appeal, the applicant states that he did not receive the notice of intent to deny his application and he was unaware of the reasons his application was denied. He has not supplemented the appeal by filing a brief or any of the requested evidence. It is noted that the record reflects that a copy of the December 17, 2002 notice of intent to deny the application was mailed to the applicant on May 14. 2003.

The applicant claims to have lived in the United States since March 1997. It is reasonable to expect that he would have some other type of contemporaneous evidence to support his claim; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility and probative value. 8 C.F.R. § 244.9(b). It is determined that the applicant has not established that he and are one and the same, and that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and physical presence requirements described in 8 C.F.R §§ 244.2(b) and (c). In addition, aliens applying under the provisions for late initial registration must 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 paragraph (f)(2) above. The applicant has presented no evidence to overcome this finding of the director. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the Federal Bureau of Investigation report in the record of proceeding reflects that the applicant was arrested in Waukegan, Illinois, on March 23, 2002. However, there is no court disposition in the record.

The burden of proof is upon the applicant to establish 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.