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U.S. Citizenship and Immigration Services

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MAY 27 2004

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

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.

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 determined that the applicant failed to submit 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 claims that he entered the United States without inspection in 1995 and that he has continuously resided in this country since that time. He states that he applied for TPS in 2000, and his appeal of the denial of that application has been pending since 2001. The applicant states that he failed to register for TPS in 2001 because he did not know if he should do so because of the pending appeal of his prior application. The applicant submits additional evidence of his residence in the United States.

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.

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.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since [redacted] nd that they have been continuously physically present in the United States since [redacted] On [redacted] he Attorney General announced an extension of the TPS designation unti [redacted] Subsequent extensions of the TPS designation have been granted with the latest extension valid until [redacted] upon the applicant's re-registration during the requisite time period.

The record reflects that the applicant filed his TPS application on [redacted] the applicant was requested to submit: (1) a photo identification document; (2) a copy of his birth certificate with English translation; (3) evidence to show that he has continuously resided in the United States sin [redacted] 4) evidence to show that he has been continuously physically present in the United States since [redacted] nd (5) evidence to establish that he was eligible for filing after the initial registration period from [redacted] While the applicant, in response, submitted photo identification, his birth certificate, and evidence of his residence in the United States, he failed to submit evidence that he was eligible to file for TPS after the initial registration period from [redacted] The director, therefore, denied the application.

Aliens applying under the provisions for late initial registration must prove that they are eligible because during the initial registration period of [redacted] they fell within the provisions described in paragraph (f)(2) above.

The record reflects that the applicant first applied for TPS on [redacted] fter the initial registration period had expired. [redacted] the applicant was requested to submit evidence to establish that he was eligible for late registration. In response, the applicant submitted evidence of his residence in the United States; however, he did not submit evidence to establish that he was eligible for filing after the initial registration period fro [redacted] he director denied the

application for TPS. The applicant was granted 30 days to appeal the decision. The applicant submitted an appeal, however, it was not received until after the period for filing an appeal had expired. The director treated the untimely-filed appeal as a motion to reopen, reviewed the record of proceeding, and affirmed the previous decision, denying the application for TPS.

The applicant, on appeal, states that he failed to register for TPS in 2001 because he did not know if he should do so because his appeal of the denial of his first application for TPS was still pending. However, in order to submit an application for re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. As the applicant's previous application for TPS was denied, he was not eligible to apply for re-registration.

On appeal, the applicant also submits additional evidence of his residence in the United States. 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 above. The applicant has not submitted to establish that he met the qualification for late registration, and to overcome the findings of the director pursuant to 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application is affirmed.

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.

ORDER: The appeal is dismissed.