

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



MM

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 20 2005
[WAC 03 209 53664]

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
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 applying for 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 the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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.

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 Citizenship and Immigration Services (CIS) on June 20, 2003.

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 or 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).

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 director determined that the applicant had failed to establish he was eligible for late registration and denied the application on September 26, 2003.

On appeal, the applicant states that he was not informed that "it was too late" when he filed his TPS application. He further states that he thought he qualified for late registration based on a CIS announcement extending the TPS designation for Hondurans and Nicaraguans until January 5, 2005. The applicant submits a printout of the BCIS announcement from the website, www.bcis.gov. The announcement referred to by the applicant extends the designation of Honduras and Nicaragua for TPS, and allows aliens who have already been granted TPS to apply for re-registration and extension of their employment authorization. The announcement does not permit Honduran or Nicaraguan citizens to file an initial TPS application during the current extension of TPS designation for Honduras or Nicaraguans, unless the alien establishes that he or she meets the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). The applicant has not submitted any evidence 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 decision of the director, the record indicates that the applicant did not enter the United States until June 24, 1999. Therefore, he cannot establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. The application also must be denied for these reasons.

It is noted that the applicant was apprehended by the United States Border Patrol on June 17, 1999, at the Van Horn Bus Station in Van Horn, Texas. He was not in possession of any valid documents to be or remain in the United States at the time of his apprehension. The applicant was originally ordered to appear for a removal hearing before an Immigration Judge in El Paso, Texas, on July 20, 1999. The matter was subsequently scheduled for a custody determination by the Immigration Judge in El Paso, Texas, on August 10, 1999. On that date, the Immigration Judge ordered that the applicant be released under a \$2,500.00 bond. The applicant was scheduled for a removal hearing before an Immigration Judge in El Paso, Texas, on September 1, 1999.

On September 15, 1999, the applicant's counsel at that time filed a motion for a change of venue. On September 27, 1999, the Immigration Judge in El Paso, Texas, granted the motion for change of venue to San Francisco, California.

On October 6, 1999, a notice of hearing was issued ordering the applicant to appear for a removal hearing before an Immigration Judge in San Francisco, California, on November 9, 1999. The hearing was subsequently rescheduled to February 15, 2000. The obligor failed to present the applicant for his removal hearing as ordered. Therefore, the Immigration Judge ordered the applicant removed to Honduras in absentia on February 15, 2000.

On February 24, 2000, the District Director, San Francisco, issued a Form I-205, Warrant of Removal/Deportation. The District Director also issued a Form I-340, Notice to Deliver Alien, instructing the applicant's obligor, Ranger Insurance Company in Houston, Texas, to deliver the applicant to the San Francisco District Office for removal to Honduras on March 14, 2000. The obligor failed to deliver the alien for removal, and the bond was declared breached.

On April 20, 2000, counsel for the applicant filed an appeal from the bond breach. The AAO dismissed the appeal on November 15, 2000. To date, the Warrant of Removal/Deportation remains outstanding.

Finally, it is noted that the applicant indicated on the Form I-821 that he has never been under any immigration proceedings. Therefore, he may be inadmissible under section 212(a)(6)(C)(i) of the Act as an alien who attempted to obtain an immigration benefit through fraud or misrepresentation of a material fact. As the appeal will be dismissed on the ground discussed, this matter will not be addressed further at this time.

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.

aaolwc01//N/May 7, 2005/

u