

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M

[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

JUN 29 2005

[LIN 01 247 53680]

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.


for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A motion to reopen was dismissed by the director. The matter is now before the Administrative Appeals Office (AAO) on a subsequent motion to reopen. The motion to reopen will be granted and 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 on January 17, 2002, because the applicant failed to establish he was eligible for late registration. The director also found that the applicant had failed to establish his date of entry into the United States, and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director denied the application because the applicant did not establish that [REDACTED] are one and the same person.

A subsequent motion to reopen from the director's decision was dismissed on April 15, 2003, after the director concluded that the applicant had failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his date of entry into the United States, and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director also found that the applicant did not establish that [REDACTED] Turrubiarres are one and the same person.

On May 15, 2003, the applicant submitted a subsequent motion to reopen. On the motion to reopen, the applicant reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his eligibility for TPS.

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 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 initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on August 6, 2001.

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 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 or she 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 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).

The director determined that the applicant had failed to establish he was eligible for late registration. The director also determined that the applicant failed to establish his date of entry and continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In addition, the applicant failed to establish that he and [REDACTED] are one and the same person. The director, therefore, denied the application on January 17, 2002. On February 10, 2003, the applicant filed an appeal of the director's decision to deny his application; however, that appeal was not filed within the requisite time frame. The director, therefore, rejected the appeal; however, the director treated it as a motion instead.

Subsequently, the motion from the director's decision was dismissed on April 15, 2003, after the director concluded that the applicant had failed to establish eligibility for TPS late registration. The director also determined that the applicant had failed to establish his date of entry into the United States, and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director determined that the applicant did not establish that [REDACTED] and [REDACTED] are one and the same person.

On May 15, 2003, the applicant submitted a subsequent motion to the director's April 15, 2003 decision. On the subsequent motion, the applicant stated that he came to the United States when he was 17 years old. The applicant also states that his father [REDACTED] is an eligible TPS recipient and filed for him. The applicant also provides copies of school report cards dated January 29, 1999 and June 12, 1999 from the Waukegan Public Schools.

The first issue in this proceeding is whether the applicant is eligible for late registration. 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 in 8 C.F.R. § 244.2(f)(2). The applicant claims that his father is a TPS recipient. A review of CIS' systems indicates that his father's TPS application was denied on November 12, 2003. His father is not an alien currently eligible to be a TPS registrant; therefore, the applicant is not eligible for late registration on these grounds. The applicant has not submitted any evidence to establish 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 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 date of entry into the United States as of December 30, 1998; his continuous residence in the United States since December 30, 1998; and his continuous physical presence in the United States since January 5, 1999.

The applicant stated on the Form I-821, Application for Temporary Protected Status, that he did not enter the United States until October 1999. Therefore, he could not have met the date of entry requirements. In addition, he could not have met the requirements that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999. It is noted the photocopied school grade reports from the Waukegan Public Schools appear to have been altered as the original student's name and the date of the report seem to have been covered-over and the applicant's name and an earlier date inserted in their place. 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 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 apparent alteration of the documents. The applicant has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on these grounds will also be affirmed.

The third issue in this proceeding is whether the applicant has established that he and [REDACTED] are one and the same person. The applicant, on motion, states that he used both the name of [REDACTED] and [REDACTED] to work in the United States. A review of the record of proceedings reflects that the applicant submitted copies of his birth certificate and the biographical pages of his Honduran passport bearing the name of [REDACTED]. The applicant further states that he had already explained his use of both names. However, the applicant failed to provide any credible evidence to establish the use of his claimed name of [REDACTED]. The record of proceedings includes a copy of his photo identification from the [REDACTED] however, this is not an official document issued by the proper civil authorities. Evidence of the use of two names may include official court documents registered with the proper civil authorities. Further, it is also noted that the applicant did not claim the use of any aliases on his applications for temporary protected status or employment authorization. The applicant has, therefore, failed to establish that he and [REDACTED] are one and the same person.

An alien applying for TPS 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.