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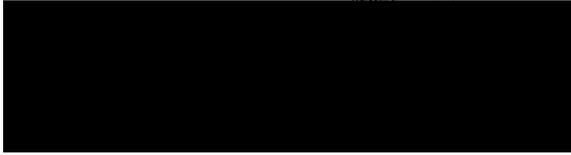
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M1



FILE:



[SRC 03 184 55215]

Office: TEXAS SERVICE CENTER

Date:

MAY 04 2006

IN RE:

Applicant:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Handwritten initials in black ink, possibly "RW".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas 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 had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant states he is an honor student and a religious and law-abiding person. He further states that the consultant that helped him submit his application listed his initial date of entry into the United States as November 15, 2000 rather than November 15, 1998. The applicant indicates that the application was not filed until now as a late initial registration out of fear and for financial reasons.

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 of a 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 Temporary Protected Status 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.

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.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2006, upon the applicant's re-registration during the requisite time period.

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 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On August 15, 2003, the applicant was requested to submit evidence establishing his continuous residence since December 30, 1998, and continuous physical presence since January 15, 1999, in the United States. The director also requested that the applicant submit a photo identification card or any national identity document from his country of origin bearing his photo and/or fingerprint such as a photocopy of his passport or national identification card. The applicant, in response, provided documents including his Miami-Dade Public School interim progress report for the 2003-2004 school year, his patient receipt from the MacGregor Medical Association in Houston, Texas for services he received on June 20, 2001, an Internal Revenue Service document dated April 4, 2001 showing the applicant's IRS individual taxpayer identification number and a letter dated June 15, 2002 from the M.A. Milam K-8 Center in Hialeah, Florida congratulating him for 100% school attendance for the fourth grading period. He also submitted a document entitled Legal Aid Foreign Student Information dated September 18, 2003 that shows that he entered the fourth grade on August 25, 2003 and that he entered the United States on November 21, 2000. Finally, he submitted another school printout showing his earliest enrollment as starting on August 28, 2001, a school bus pass showing that he should report to his school on August 25, 2003, a dental appointment postcard showing an appointment on August 19, 2003 and his bank statement from [REDACTED] FA for the period ending June 30, 2003.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on April 9, 2004.

On appeal, the applicant reasserts his claim and submits the first page of an immunization record, a letter dated July 27, 2001 from Salyers Elementary School in Spring, Texas indicating that he passed summer school and would be in the second grade for the 2001-2002 school year. He also submitted another undated letter from the Registrar of Salyers Elementary School indicating that the applicant enrolled in the school on December 5, 2000. Finally, the applicant submits his transcripts from the Miami-Dade County Public Schools for the second and third terms of the 2001/02 school years along with his third grade transcripts updated on April 8, 2003 from Norland Elementary School in Miami, Florida for grading periods two and three.

While the applicant maintains that a consultant incorrectly stated his date of entry into the United States as November 15, 2000 instead of November 15, 1998, he has not submitted any evidence to establish his qualifying residence or physical presence in the United States during the period from December 30, 1998, to December 5, 2000. He 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 for TPS is affirmed.

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.