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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

FILE: [redacted] Office: Texas Service Center Date: MAY 24 2005

[SRC 04 086 54779]

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, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a national or a 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. The director also found that the applicant had failed to establish 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 failed to submit a copy of his current driver's license and a copy of his original birth certificate along with an English translation.

On appeal, the applicant asserts his claim of eligibility for TPS and submits evidence in support of his claim.

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.

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.

The phrase *brief, casual, and innocent absence,* as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

(1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. 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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS), on February 3, 2004, after the initial registration period had closed.

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).

On February 12, 2004, the applicant was requested to submit evidence to establish his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence in the United States prior to December 30, 1998, and his continuous physical presence in the United States since January 5, 1999, to the date of filing his application. In addition, the applicant was requested to submit a copy of his photo identification or national identity document. The applicant was also requested to submit a copy of his current driver's license and a copy of his original birth certificate along with an English translation. In response, the applicant submitted some evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the requisite time periods. However, the applicant did not submit any evidence to establish his eligibility for TPS late registration. The director determined that the applicant failed to establish his eligibility for TPS late registration. The director also determined that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. Therefore, the director denied the application on March 29, 2004. The director also noted in her decision to deny that the applicant failed to provide photo identification and a copy of his birth certificate with an English translation.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. 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/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).

On appeal, the applicant states that he has lived in the United States since 1997 and that he has all of the evidence to prove that he has been in the United States since that time. The applicant, on appeal, submits evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the requisite time periods. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. Further, it is noted on the Form I-765, Application for Employment Authorization, the applicant indicated both his manner of entry into the United States and his current immigration status as entry without inspection (EWI), while on the Form I-821, Application for Temporary Protected Status, the applicant indicated that he entered the United States without inspection, and listed his current immigration status as an F-1, nonimmigrant student. The applicant, however, presented no evidence to substantiate that he had been granted any type of nonimmigrant status. 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 decision to deny the application for TPS will be affirmed.

The second issue in this proceeding is whether the applicant has established 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, on appeal, submits the following documentation: a copy of his Florida State identification card issued on March 3, 2004; a copy of an AT&T payment statement dated September 19, 1999; a copy of an undated employment letter from [redacted] Qualifier Aurelio Infante of MIS Corporation, who stated that the applicant has been employed by his company since January 1999; copies of hand-written rental receipts dated May 1, 1999, June 1, 1999, July 1, 1999, and August 1, 1999; copies of receipts from Tele-Giros America, Inc., dated February 10, 1999, April 18, 1999, June 14, 1999, and July 3, 1999.

The copies of rent receipts provided by the applicant do not indicate the applicant's address or the address of the rented dwelling. In addition, while 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. It is noted that the applicant had already submitted copies of the rent receipts and receipts from [redacted]. in response to the director's February 12, 2004 request. The undated employment letter from [redacted] little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. It is further noted that the letter is not in affidavit form nor notarized.

In addition, the copy of the AT&T payment statement submitted by the applicant on appeal appears to have been altered as the customer name and dates on the statement seem to have been covered-over and the applicant's name and earlier dates have been 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 document mentioned above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will be affirmed.

The third issue in this proceeding regards the applicant's failure to submit copies of his current driver's license and his original birth certificate along with an English translation. A review of the record of proceedings reflects that the applicant provided a copy of his Florida State Identification Card and a copy of his Honduran personal identification card; however, the applicant did not provide a copy of his birth certificate along with an English translation. Therefore, the director's decision to deny the application for this reason will be 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.