

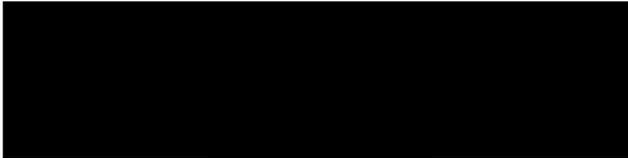
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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: **APR 03 2007**
[WAC 05 159 71714]

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a 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 the ground that the applicant failed to register for TPS in a timely manner.

On appeal the applicant submits some additional documentation and requests that his case be reviewed.

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 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 parole; 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.

Honduran nationals applying for TPS 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 applicant filed his initial Form I-821, Application for Temporary Protected Status, on March 8, 2005 – five and one-half years after the end of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above.

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 Citizenship and Immigration Services (CIS). See 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. See 8 C.F.R. § 244.9(b).

On February 22, 2006, the service center requested the applicant, who claims to have entered the United States without inspection on April 5, 1998, to submit evidence that he was eligible for late registration and met the qualifying continuous residence and continuous physical presence requirements for TPS applicants from Honduras, as well as evidence of his date of entry into the United States. On March 22, 2006, the applicant responded with three letters from acquaintances in the United States who claim to have known the applicant since 1998 or 1999, and a photocopy of an apparently uncashed check to the applicant dated June 30, 1998.

On April 20, 2006, the director denied the application on the ground that the applicant failed to register for TPS in a timely manner.

On appeal the applicant has submitted photocopies of his Honduran passport, issued in 2004, his federal income tax return and Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement, for 2004, and a Spanish-language letter to him from the IRS dated April 18, 2006.

The evidence of record does not establish the applicant's eligibility for TPS. The record indicates that the applicant did not file his TPS application until March 8, 2005, which was five and one-half years after the end of the initial registration period for Honduran nationals on August 20, 1999. There is no evidence in the record that the applicant is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). The director's denial of the application on the ground of untimely filing will therefore be affirmed.

Beyond the decision of the director, the documentation of record does not meet the evidentiary standards set forth at 8 C.F.R. § 244.9(a)(2), to establish that the applicant has been continuously physically present in the United States since January 5, 1999, and continuously resident in the United States since December 30, 1998, as required for TPS applicants from Honduras under 8 C.F.R. § 244.2(b) and (c). The only evidence of the applicant's residence and physical presence in the United States, aside from the brief letters from acquaintances dating from February 2006, are a check dated in 1998 and tax-related documentation dated in 2004 and 2006. The applicant has submitted no contemporaneous documentation from the years 1999 to 2003. If the applicant has lived in the United States since April 1998, as he claims, it is reasonable to expect that he would have more contemporaneous documentation. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. Accordingly, the application must also be denied for insufficient evidence of the applicant's continuous residence and physical presence in the United States.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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 that burden.

ORDER: The appeal is dismissed.