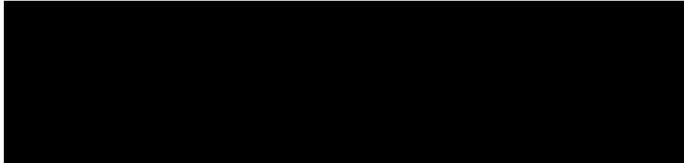




U.S. Citizenship
and Immigration
Services

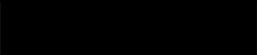
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prevent clearly unwarranted
invasion of personal privacy



MI

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: APR 27 2007

[WAC 05 146 78647]

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 California Service Center 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".

Robert P. Wiemann, Chief
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 claims to be 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 03 201 56193 after the initial registration period had closed. The Director, Texas Service Center, denied that application on January 5, 2004, after determining that the applicant had failed to establish he was eligible for late initial registration. The applicant filed the current application on February 23, 2005 and again requests that he be considered for late initial registration. On May 16, 2006, the Director, California Service Center, determined that in addition to the applicant being ineligible for late initial registration, he had also failed to establish that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999 and had not provided evidence of his "nationality/identity."

On appeal, the applicant states:

I'm a national of Honduras, I entered the USA 08/10/1994 and I have continuously live in the USA since I entered. I registered with the TPS in 2001 and I'm married with a TPS approved, I have a child born in USA on 01/1997. I meet the criteria for the TPS temporary treatment benefits, I have maintained and continue to maintain eligibility for TPS. Enclosed my kids birth certificate and some receipts and my Florida ID which was issued by the State of Florida in 1995.

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 temporary protected status 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 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.

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 shows that the applicant filed his first application with Citizenship and Immigration Services (CIS) on July 8, 2003 and this application with CIS on February 23, 2005.

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

The record of proceeding contains a copy of the applicant's marriage certificate indicating that he married [REDACTED] on August 23, 2000 and his claim that he is eligible for TPS because "I'm married with a TPS approved." In order to be eligible for late registration, the qualifying relationship must have existed during the initial registration period. 8 C.F.R. § 244.2(f)(2). Since the applicant was not the spouse of an alien currently eligible to be a TPS registrant during the initial registration period, he is not eligible for late registration for that reason.

On appeal, the applicant submitted evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file either of his Applications for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

Additionally, on appeal, it is determined that the applicant has provided sufficient evidence to establish that he had continuously resided and been continuously physically present in the United States during the required

period. However, he has failed to establish that he is a national or citizen of Honduras. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a)(1). Therefore, the director's decision to deny the application is affirmed for this additional reason.

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 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.