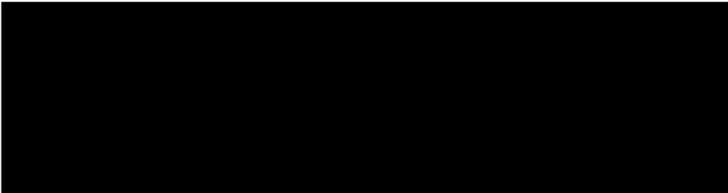




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy



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FILE:



OFFICE: California Service Center

DATE: **AUG 02 2007**

[WAC 05 285 70522]

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.

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 grounds that the applicant failed to establish that he was eligible for late TPS registration, that he had continuously resided in the United States since December 30, 1998, and that he had been continuously physically present in the country since January 5, 1999.

On appeal the applicant states that he has lived in the United States since 1997 and submits some additional documentation.

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 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.

Honduran nationals applying for TPS must demonstrate continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States 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 initial Form I-821, Application for Temporary Protected Status, on July 11, 2005 – nearly six years after the close 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 July 12, 2006, the service center issued a Notice of Intent to Deny (NOID) in which it requested the applicant, who claims to have entered the United States without inspection on November 15, 1997, to submit evidence that he was eligible for late registration; that he continuously resided in the United States since December 30, 1998; and that he had been continuously physically present in the United States since January 5, 1999; as well as evidence of his nationality/identity. In response the applicant submitted a photocopy of his Honduran passport

with a photo identification and assorted documentation dating from the years 1998 to 2006. The only documents bearing the applicant's name, however, are from the years 2004-2006.

On September 7, 2006, the director denied the application on the grounds that the documentation submitted by the applicant failed to establish that he was eligible for late TPS registration and that he met the continuous residence and continuous physical presence requirements applicable to Honduran nationals.

On appeal the applicant states that he has lived in the United States since 1997 and submits additional documentation from the time period 1998-2006. As was the case with the previously submitted evidence, however, the documents bearing the applicant's name are exclusively from the years 2004-2006.

Thus, there is still no evidence in the record that the applicant, who filed his initial TPS application six years after the end of the initial registration period for Honduran nationals, is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Furthermore, the documentation of record does not 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). Accordingly, the director's denial of the application on the grounds of late filing and insufficient evidence of continuous residence and continuous physical presence in the United States will be affirmed.

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.