



U.S. Citizenship
and Immigration
Services

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JUL 25 2007

FILE:

Office: TEXAS SERVICE CENTER

Date:

[SRC 02 115 53846]

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 "R. Wiemann".

Robert P. Wiemann, Chief
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 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 for TPS because the applicant failed to establish he was eligible for late initial registration.

On appeal, the applicant states that his wife was eligible to be a TPS registrant, that he registered with TPS in a timely fashion and that he was even granted a work permit. The applicant further states that he lost his wife and his five year old daughter in a car accident that occurred in North Carolina in December 2001. He requests that his application be approved.

Section 244(c) of the Act, and the related regulations at 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.

- (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 application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on February 25, 2002.

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 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 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 September 13, 2002, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his nationality, continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country. To establish that he was the spouse of an alien eligible to be a TPS registrant during the initial registration period, the applicant submitted a copy of a marriage certificate accompanied by a translation indicating that he married a Honduran woman who will remain unnamed (out of respect) on April 15, 1998 in Honduras. However, his claimed spouse was interviewed after she was apprehended by the Border Patrol in 1998 and stated that she had been married to another person who had died. Additionally on April 14, 1999 the applicant was apprehended by the Border Patrol in Harlingen, Texas under the name [REDACTED]. At that time, he stated that he had been married to [REDACTED] who had died. 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 competent objective evidence to overcome the discrepancies concerning his claimed marriage to a TPS eligible registrant during the initial registration period.

It is determined that he has not submitted sufficient 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.

Given that the applicant entered the United States by wading the Rio Grande River on April 14, 1999, it is determined that he can not establish his continuous residence since December 30, 1998 and continuous physical presence since January 5, 1999. 8 C.F.R. § 244.2 (b) and (c). Therefore, the application cannot be approved for these additional reasons.

Furthermore, the applicant has provided insufficient evidence 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. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). Therefore, the application is denied for this additional reason.

It is noted that, in removal proceedings held on June 22, 1999, an Immigration Judge in Harlingen, Texas, ordered the applicant deported "in absentia" to Honduras under the name [REDACTED]. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the District Director of the Harlingen, Texas, office of CIS under that name.

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 this burden.

ORDER: The appeal is dismissed.