



U.S. Citizenship  
and Immigration  
Services

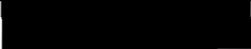
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FILE:



Office: VERMONT SERVICE CENTER

Date: AUG 04 2008

[EAC 08 125 51085, appeal]  
[EAC 07 233 70177]

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

The applicant is a 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 director denied the application because the applicant failed to establish he was eligible for late initial registration. The director also found that the applicant had not established that he had been continuously physically present in the United States since January 5, 1999 or that he had continuously resided in this country since December 30, 1998.

On appeal, the applicant states that he has submitted documentation that establishes his continuous presence in the United States since he entered on May 1, 2005. The applicant further states that he wants to live in this country, contribute to the improvement of the economy and to help his family. The applicant provides additional documentation 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 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 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 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 application with Citizenship and Immigration Services (CIS), on May 18, 2007.

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.

On appeal, the applicant submits evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, 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.

As stated above, the applicant filed his initial TPS application on May 18, 2007. He indicated on his application that he entered the United States on May 1, 2005, subsequent to the eligibility period.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated May 5, 2005, indicating that the United States Border Patrol apprehended the applicant near Sarita, Texas, after he illegally entered the United States by crossing the Rio Grande River on May 1, 2005 near Brownsville, Texas. None of the evidence presented by the applicant establishes his continuous residence since December 30, 1998 and his continuous physical presence from January 5, 1999, to May 1, 2005, the actual date he entered the United States. Therefore, he cannot satisfy the continuous residence and continuous physical 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 is affirmed for these additional reasons.

In removal proceedings held "in absentia" on November 30, 2005, an Immigration Judge in Harlingen, Texas, ordered the applicant deported to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the Field Office Director of Detention and Removals of the Harlingen, Texas, office of Citizenship and Immigration Services, (formerly the Immigration and Naturalization Service) on December 7, 2005.

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.