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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

MI

[REDACTED]

FILE: [REDACTED]
[SRC 02 115 54340]

Office: VERMONT SERVICE CENTER

Date:
JUN 05 2009

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

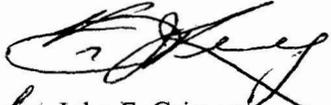
ON BEHALF OF APPLICANT:

[REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. 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 determined that the applicant failed to establish he: 1) had been continuously physically present in the United States since January 5, 1999; and 2) was eligible for late registration. The director, therefore, denied the application.

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

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 as 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.

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.

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.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2010, upon the applicant's re-registration during the requisite period.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed his initial TPS application on March 1, 2002. On January 4, 2005, the applicant filed a re-registration application under receipt number WAC 05 096 78012. That application was denied on August 6, 2005. The current TPS application was initially denied on July 7, 2003 and was subsequently reopened on April 16, 2008.

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 United States Citizenship and Immigration Services (USCIS). 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. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On April 21, 2008, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant submits evidence in an attempt to establish his continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application 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 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant failed to establish his eligibility for late registration will be affirmed. The record contains statements from the applicant that he and his twin brother, [REDACTED] submitted TPS applications at the same time. USCIS records confirm that the applicant's brother filed a TPS application on July 4, 2002, under receipt number SRC 02 129 54635. That application has been denied.

The second issue in this proceeding is whether the applicant has established his continuous physical presence in the United States from January 5, 1999.

As stated above, the applicant was requested on April 21, 2008 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted copies of a bank statement from First Union Bank for the period from April 1, 1999 through June 30, 1999; a copy of a statement from Hunters Glen Apartments dated September 7, 2001; a copy of a policy statement from Legion Insurance Company dated April 30, 1998; a Notice of Cancellation from Wooden Insurance Agency dated September 14, 1998; and a hospital bill dated January 7, 1999.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

1. Copies of his Social Security Card; Employment Authorization cards dated March 14, 2001 to July 5, 2002; Vehicle Registration Cards valid until June 1998, October 1999, November 1999, and May 2002; and a State of New Jersey Driver License issued on May 10, 2003.

2. Copies of PSE&G electric bills with due dates of May 30, 2002, November 18, 2005, September 19, 2008 and November 14, 2008; documents from Countrywide Home Loans dated December 15, 2004, October 17, 2005, June 9, 2008 and August 1, 2008; Water – Sewer Bills dated July 22, 2008 and January 24, 2005, and August 21, 2006; a letter from Zenith Acquisition Corp dated May 2, 2008; documents from Commerce Bank dated February 19, 2004, January 23, 2006 and March 7, 2007; bills from Verizon dated December 1, 2003, August 23, 2004, September 1, 2005, February 7, 2007; statements from The Philadelphia Contributionship Insurance Company with due dates of May 14, 2006 and September 21, 2006; Dish Network statements dated November 21, 2001, July 21, 2002, and May 11, 2006; a letter from Citicorp dated May 1, 2006; a past due statement from CBCS dated January 5, 2005; a statement from Credit Collection Services dated May 28, 2004; documents from First Union Bank dated May 31, 2001 and December 27, 2002; a statement from Polite Insurance Agency with a policy date of December 4, 2001; documents from Allstate Insurance dated June 17, 1998 and July 23, 2000; documents from United Nations Bank dated July 16, 1999, December 14, 1999; and a bill of sale from John Altimari Auto dated December 5, 1998.
3. Copies of an unsigned lease agreement with [REDACTED] Apartments from August 1, 1999 to July 31, 2000; money transfer receipts dated June 20, 1999, March 27, 2000, July 22, 2001, August 30, 2001, and August 6, 2003,
4. Copies of a New Jersey Vehicle Registration Renewal Application dated July 7, 2001; a State of New Jersey Insurance Identification Card issued October 9, 2001; a penalty charges table from Internal Revenue Service (IRS) for the December 31, 2001 tax period; and a State of New Jersey Certificate of Title issued on October 11, 2000.
5. Copies of a letter from Mercer Mutual dated July 18, 2000, envelopes dated June 18, 2000, September 25, 2000, May 7, 2002, and an envelope with an unreadable date; a Commercial Liability Declaration for a policy term from April 6, 1998 to April 6, 1999; a statement from Willis Eye Hospital dated August 22, 1998; and a check to the applicant dated February 11, 1997.

The documents from United Nations Bank; the bill of sale from John Altimari Auto; the Commercial Liability Declaration; the policy statement from Legion Insurance Company, and the cancellation notice from Wooden Insurance Agency indicate the applicant was present in the United States prior to January 5, 1999. The February 11, 1997 check to the applicant also indicates he was present prior to January 5, 1999. However, there is nothing to establish that the check was actually issued, received and cashed by the applicant in the United States. Therefore, these documents can not establish the applicant's continuous physical presence in the United States from January 5, 1999 to the filing date of

the TPS application. The remaining evidence submitted by the applicant is dated subsequent to January 5, 1999 and therefore can not establish the applicant's requisite continuous physical presence in the United States during the qualifying period.

The applicant has not submitted sufficient evidence to establish his continuous physical presence in the United States from January 5, 1999. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since December 30, 1998.

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.