



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[SRC 04 143 54620]

Office: TEXAS SERVICE CENTER

Date: AUG 04 2005

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: 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.

for Robert P. Wiemann, Director
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 is stated 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 continuously physically present in the United States since January 5, 1999. The director also determined that he was not eligible for late registration.

On appeal, the applicant states:

The reason of the following is to ask if you can give me another opportunity to accept my case and give me the opportunity to continue being legal in this country in which lots of difficulty I live here without having the opportunity of being employed and also have the chance to pay my taxes since 1997 that I entered to this country.

I didn't have the right information before and that's why I never applied because they told me that I could be deported if I sent any papers with my information but I finally got the right information and I applied and since then I have received letters and I have answer them back and have sent all of have sent all of the money orders that you have ask for and all of the evidence please give me one more chance to have my papers in order and to have my work permit.

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 Honduras 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 Honduras 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 April 23, 2004.

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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

It is noted that on his TPS application, the applicant indicates that he was in status in the United States as an F-1 nonimmigrant student but does not indicate when that student status terminated. The record contains no documentary evidence to show that the applicant remained in nonimmigrant student status since his claimed entry into the United States in 1997, or if and when that status terminated. To be eligible to apply under the late initial registration provisions of TPS, the applicant must demonstrate that he filed for TPS no later than 60 days from the termination of his status as a nonimmigrant student. He has not done so.

On appeal, the applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application 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.

It is noted that the applicant's passport was issued to him in Honduras on January 26, 2001. Therefore, he could not have been in continuous residence in the United States since December 30, 1998 until January 26, 2001, the date his passport was issued to him abroad. The director's determination that the applicant failed to establish he was continuously physically present in the United States since January 5, 1999 is affirmed.

Beyond the decision of the director, the applicant has provided insufficient evidence to establish his continuous residence during the requisite time periods. 8 C.F.R. § 244.2 (c). Therefore, the application cannot be approved for this additional reason.

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.