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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 03 183 51707]

Office: Vermont Service Center

Date: DEC 09 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.

Robert P. Wiemann, Director
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 registration. The director also found that the applicant had failed to establish his qualifying continuous physical presence in the United States during the requisite period.

On appeal, the applicant asserts his claim of eligibility for TPS and submits additional evidence 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 is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2006, upon the applicant's re-registration during the requisite time period. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial application with the Citizenship and Immigration Services (CIS), on May 29, 2003.

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 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).

On July 3, 2003, and again on October 29, 2003, the applicant was requested 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 his application. In response, the applicant submitted some evidence in an attempt to establish his continuous physical presence in the United States. However, he did not submit any evidence to establish his eligibility for late registration. The director determined that the applicant had failed to establish he was eligible for late registration. In addition, the director found that the applicant had also failed to establish his qualifying continuous physical presence in the United States during the requisite period. Therefore, the director denied the application on February 11, 2004.

On appeal, the applicant states that he has been in the United States since 1999, and submits the following documentation:

- 1) Copies of his Honduran passport;
- 2) A copy of a letter dated February 26, 2004, from the Health Information Management Correspondence Unit of the Bronx-Lebanon Hospital Center, indicating that the applicant was admitted on September 22, 1999;
- 3) A copy of his work card dated December 30, 2002, from the [REDACTED] s and Joiners of American Local 1107;
- 4) A copy of his medical report dated April 30, 2001, from Dr. [REDACTED];
- 5) A copy of his fingerprint notification from CIS dated June 5, 2003;

- 6) A copy of a receipt from the [REDACTED] dated September 14, 1998, bearing the name of Mr. [REDACTED]
- 7) A copy of his employee identification card from the New Jersey Carpenters Fund bearing an effective date of September 1, 2001;
- 8) Copies of his earnings statements from [REDACTED] dated November 29, 2001 and March 20, 2002;
- 9) Copies of his earnings statements from [REDACTED] dated August 17, 2001, August 31, 2001, and September 28, 2001;
- 10) A copy of his 1999 Internal Revenue Service (IRS) Form 1099-MISC, Miscellaneous Income;
- 11) Copies of his U.S. Individual Income Tax Returns for the years 2000, 2001, and 2003; and,
- 12) Copies of his IRS Form W-2, Wage and Tax Statements, for the years 2000, 2001, and 2003.

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

The record of proceedings 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 he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. A review of the record of proceedings reflects that 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 decision to deny the application for TPS late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous physical presence in the United States since January 5, 1999, to the date of filing his application.

The copy of the Greyhound ticket, as detailed in No. 6 above, does not bear the full name of the applicant. In addition, the tax document, detailed in No. 10 above, may indicate that the applicant was in the United States during the year 1999. However, this document does not provide the actual dates of employment. The remainder of the evidence submitted by the applicant post-dates the beginning of the requisite time periods for Honduran TPS. Further, the applicant claims to have lived in the United States since January 1997. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his continuous residence and continuous physical presence in the United States since that time. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b). Consequently, the director's decision to deny the application for temporary protected status on this ground will also be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence during the requisite time period. 8 C.F.R. § 244.2(c). Therefore, the application will also be denied for this reason.

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.