

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

*M1*

[REDACTED]

FILE: [REDACTED]  
[SRC 04 028 53609]

Office: TEXAS SERVICE CENTER Date: **JAN 24 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.

*Cindy M. Gomez 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 (AAO) 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 that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director found that the applicant failed to submit photo identification or a national identity document bearing a photograph and/or fingerprint, as well as a copy of his current driver's license.

On appeal, the applicant submits a statement. The applicant does not submit any additional evidence in support of the appeal. It is noted that on the Form I-290B, Notice of Appeal, the applicant checked all the boxes, indicating that he: was not submitting additional evidence; was submitting evidence with the appeal form; would be submitting additional evidence or a brief within 30 days; and, that he needed additional time to submit evidence or a brief. To date, additional evidence has not been received into the record, and the record must be considered complete.

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.

The phrase 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.

The phrase 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 TPS application with Citizenship and Immigration Services (CIS), on November 6, 2003.

The burden of proof is upon the applicant to establish that he 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).

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 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 late initial registration. *See* 8 C.F.R. § 244.2(g).

On February 3, 2004, 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 residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In addition, the applicant was requested to submit photo identification or a national identity document bearing a photograph and/or fingerprint, as well as a copy of his current driver's license. The applicant, in response, provided documentation relating only to his residence and physical presence in the United States, consisting of a single USA Telephone billing statement dated "1/27/1998."

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on February 24, 2004.

On appeal, the applicant states that he has "sent all the evidence" he has, and confirms that he "entered the United States Of America in 1997." The applicant does not submit any additional evidence.

The applicant has not offered an explanation or evidence regarding his failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. It is noted that on the Form I-821, the applicant indicated that he entered the United States as a "Visitor," but left blank his date of entry into the United States and his current immigration status. On the Form I-765, Application for Employment Authorization, the applicant indicated his date of entry into the United States as September 28, 1998, as a "visitor." The applicant also submitted pages 3, 4, 29, and 30 of a passport; the pages submitted do not reflect the issuing country or the applicant's nationality. Page 30 of the passport reflects: a C-1/D visa issued at Nassau, Bahamas, on June 28, 1992, and valid through June 29, 1998; and, an entry stamp dated September 8, [illegible] at Miami, Florida. The applicant, however, did not provide photocopies of: his complete passport and visa pages; Form I-94, Arrival and Departure Record; Form I-539, Application to Extend/Change Nonimmigrant Status; Form I-20, Certificate of Eligibility for Nonimmigrant Student Status; or other evidence of having been in lawful status at the time of the initial registration period, and/or of filing within 60 days of the termination or change of that condition. The applicant has not submitted sufficient 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 temporary protected status will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on February 3, 2004, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted only the single USA Telephone billing statement dated "1/27/1998."

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

On appeal, the applicant now states that he entered the United States in "1997" and has no further evidence.

It is noted that the applicant's stated date of entry into the United States as provided on appeal is inconsistent with his stated date of entry on "09/28/1998," as he certified under penalty of perjury on the Form I-765. In addition, the date of the USA Telephone billing statement predates the applicant's claimed September 28, 1998 entry, and also appears to have been altered. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. 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 not submitted sufficient credible evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the entirety of the requisite periods. 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 this ground will also be affirmed.

Finally the director found that the applicant failed to submit photo identification or a national identity document bearing a photograph and/or fingerprint, as well as a copy of his current driver's license. As noted above, the submitted passport pages do not reflect the issuing country or the applicant's nationality. The applicant also failed to submit additional photo identification or a driver's license on appeal.

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.