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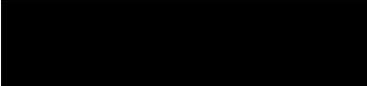
U.S. Citizenship
and Immigration
Services

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FILE:  Office: NEBRASKA SERVICE CENTER Date: **JAN 26 2005**

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 determined that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant resubmits evidence previously provided and states that he is sending a brief and/or evidence within 30 days. To date, there has been no further correspondence from the applicant. Therefore, the record shall 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 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 January 5, 2005, 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 June 23, 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 Citizenship and Immigration Services (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).

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. See 8 C.F.R. § 244.2(g).

On September 17, 2003, 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 identity, his date of entry and continuous residence in the United States since December 30, 1998, and 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 of his identity, and evidence in an attempt to establish

his continuous residence and continuous physical presence in the United States. The applicant did not present any evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he has been in the United States since July 1998, and does not understand why his application was denied. The applicant also resubmitted evidence previously provided in an attempt to establish his continuous residence and continuous 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 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, to the date of filing the application.

As stated above, the applicant was requested on September 17, 2003, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. A letter from [REDACTED] dated September 25, 2003.
2. A copy of the first page of the applicant's passport.
3. A copy of the applicant's State of Kansas driver's license, issued on November 30, 1999.
4. A copy of the applicant's birth certificate, with English translation.
5. Copies of 1999 and 2000 W-2, Wage and Tax Statements and an undated copy of another W-2 Wage and Tax Statement.
6. Copies of payment statements from Golden Corral dated March 8, 2000, November 21, 2001, July 3, 2002, July 17, 2002, September 11, 2002, October 9, 2002, January 29, 2003, March 26, 2003, June 4, 2003, July 2, 2003, September 10, 2003.
7. Copies of payment statements for an unidentified employer dated April 10, 2001, October 23, 2001, January 29, 2002, February 12, 2002, April 9, 2002, May 7, 2002, August 13, 2002, September 10, 2002, January 28, 2003, February 25, 2003, April 8, 2003, June 17, 2003, July 29, 2003, September 23, 2003, May 6, 2003, June 3, 2003, July 1, 2003.
8. Copies of pay stubs from American Laminates, Inc. dated June 10, 1999, August 12, 1999, September 30, 1999, August 5, 1999, September 2, 1999, and September 9, 1999.
9. Copy of a sales receipt dated January 31, 2001.
10. Two copies of a Proof of Insurance Card with an effective date of September 10, 2003.

In his statement, [REDACTED] says Golden Corral had employed the applicant since 1998. However, the statement has little evidentiary weight or probative value as it does not provide basic information that is expressly

required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, [REDACTED] does not provide the address where the applicant resided during the period of his employment. In addition, [REDACTED] failed to provide the exact periods of employment, or the applicant's duties of employment. The remaining evidence provided by the applicant indicates his presence in the United States only from June 10, 1999 to the date of filing the application. 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 furnishes a statement indicating that he has been in the United States since July 1998 and does not understand why his application was denied. The applicant resubmits evidence previously provided.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the periods from December 30, 1998 and 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 this ground will also be affirmed.

Beyond the decision of the director, it is noted that the applicant provided a photocopy of the first page of his passport in an attempt to establish his nationality and his identification. However, the passport was signed by the applicant and issued in Honduras on January 27, 1999. Consequently, this is further evidence that the applicant may not have met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c).

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.