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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[LIN 03 214 50617]

OFFICE: NEBRASKA SERVICE CENTER

Date: JUN 29 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, Nebraska 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 continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

On appeal, the applicant submits a statement and additional evidence. Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named, [REDACTED] is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant in proceedings before Citizenship and Immigration Services (CIS). Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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 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.

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.

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, 2006, upon the applicant's re-registration during the requisite period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with CIS on June 23, 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 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 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 at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On September 12, 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 qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The record does not contain a response from the applicant.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on December 4, 2003.

On appeal, the applicant states that he needs employment authorization so he can help support his family in Honduras. However, the applicant does not submit any evidence to establish his eligibility for late registration.

The applicant submits a photocopy of a Form I-821 and a Form I-765, Application for Employment Authorization, both signed by the applicant on June 1, 2002; a letter from the applicant dated June 1, 2002; a notice from the Nebraska Service Center dated July 15, 2002, indicating that the submitted Forms I-821 and I-765 were being rejected and must be resubmitted with the proper fees; and, a letter dated June 17, 2003 from the applicant stating that his first TPS application was returned because he hadn't submitted the required fees, and he was submitting an application for "re-registration" with the proper fees.

The record confirms that the applicant attempted to submit his TPS application on or about June 1, 2002, but his application was rejected and returned to him because the application was not submitted with the required fees. The applicant did not properly file his application with the correct fees until June 23, 2003, almost four years after the expiration of the initial registration period for Hondurans. Even if the applicant had properly filed his TPS application on or around June 1, 2002, it still would have been untimely filed, since the initial registration period for Hondurans expired on August 20, 1999.

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 had 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.

As stated above, the applicant was requested on September 12, 2003, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The record does not contain a response from the applicant.

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 submits the following evidence:

1. an Indiana birth certificate indicating that [REDACTED] was born to the applicant and [REDACTED] Indianapolis, Indiana, on September 22, 2003;
2. a letter dated December 20, 2003, from [REDACTED] President of [REDACTED] [REDACTED] in Indianapolis, Indiana, stating that the applicant is an acquaintance and has "come to my Business on a number of occasions since first meeting He [sic] in January 2000." [REDACTED] further states: "She does a good job on Sales Department and He increased our year sales, we paid by Independent contractor every week for \$600.00;"
3. a letter dated December 30, 2003, from [REDACTED] President of [REDACTED] city and state unknown, stating that the applicant worked for his company "from 1999 to 2000;"
4. a letter dated December 30, 2003, from [REDACTED] President of [REDACTED] stating that the applicant "has worked with this company for the past 2 Years until Present.;" and,
5. a letter dated December 30, 2003, from [REDACTED] Certified Public Accountant in Indianapolis, Indiana, stating that the applicant entered the United States on August 7, 1998.

[REDACTED] states in his letter dated December 30, 2003, (No. 2 above) that the applicant has "come to my Business on a number of occasions since January 2000." [REDACTED] further states, referring to the applicant, that "She does a good job on Sales Department and He increased our year sales." [REDACTED] appears to be indicating at the beginning of his letter that the applicant has been his customer since January 2000. Mr. [REDACTED] then states that the applicant worked in his "Sales Department" and was paid as an "independent contractor." In a separate letter dated December 30, 2003, (No. 5 above) [REDACTED] states that he is a certified public accountant. It is not clear why Mr. [REDACTED] would indicate that the applicant works in his "Sales Department" as an "Independent Contractor" if [REDACTED] a certified public accountant, as he claims. Furthermore, [REDACTED] submitted a Form G-28 indicating that he is authorized to represent individuals in proceedings before CIS. Certified public accountants are not normally authorized to represent individuals in proceedings before CIS.

Additionally, the employment letters from [REDACTED] (No. 3 above) [REDACTED] (No.2 above), and [REDACTED] (No. 4 above) have little evidentiary weight or probative value none of these individuals provides basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, none of these individuals provides the exact dates of employment, the applicant's duties, or the address where the applicant resided during the period of his employment with their respective companies. Additionally, none of these employment letters is attested to by the author under penalty of perjury.

Furthermore, it is noted that all three letters are printed on the same stationary bearing the same image of the Western Hemisphere, and all three have gray bars on the upper and lower borders. It is unlikely that three separate businesses that happen to have employed the applicant would use the same stationery. The applicant

has not provided any explanation for these discrepancies. 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 visa petition. Further, it is incumbent on 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. (Comm. 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 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 TPS on these grounds will also be affirmed.

It is noted that the applicant was apprehended by the United States Border Patrol on March 8, 1990. The applicant told the apprehending officers that he had entered the United States on March 5, 1990, near Laredo, Texas. The applicant was served with a notice ordering him to appear for a deportation hearing before an Immigration Judge. The record indicates that no deportation hearing was ever held because the Immigration and Naturalization Service, now Immigration and Customs Enforcement, had no valid address for the applicant in the United States.

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.