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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:
[LIN O3 245 50112]

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 his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a brief statement and additional documentation.

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.

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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant properly filed his initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on August 11, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an

application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants must 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).

In support of his initial TPS application, the applicant submitted photocopies of the following:

1. A High School Cumulative Record, indicating that the applicant entered grade 9 of the Center School District No. 58, Kansas City, Missouri, on February 12, 1997, for the second semester of the 1996-1997 school year. He also attended grade 9 for two semesters of the 1997-1998 school year; grade 10 for two semesters of the 1998-1999 school year; and grade 11 for one semester of the 1999-2000 school year;
2. A Vaccine History record from the Kansas City, Missouri Health Department showing immunizations dating from February 10, 1997 through August 10, 1998;
3. A Grade Report from the Center School District No. 58, Kansas City, Missouri, dated June 11, 1998; and,
4. An illegible document.

On September 19, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration. The applicant was also requested to submit evidence to establish his nationality and identity, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted photocopies of:

5. A certificate of congratulations for perfect attendance in the 2nd session of Summer School, Center High School, 1998;
6. The identification page from his Honduran passport, issued in El Salvador on October 7, 1997; and,
7. His Internal Revenue Service (IRS) 1999 Form W-2, Wage and Tax Statement, issued by Panda Management Company, S. Pasadena, California.

The director determined that, while the applicant had submitted evidence to establish his identity and nationality, he had failed to submit sufficient evidence to establish his eligibility for late registration. The director also determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a photocopy of the following additional documentation:

8. An employment letter from Panda Restaurant Group, Inc., dated December 10, 2003, stating that the applicant was initially employed from June 23, 1999 to February 11, 2001, and has been employed as a cook from May 29, 2001 to the date of the letter.

It is concluded that the applicant has failed to overcome the director's decision. The record confirms that the applicant did not properly file his TPS application until after the initial registration period had expired. The applicant has submitted evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821 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). Furthermore, while the documentation in Nos. 1, 2, 3, 5, and 7, above, indicate that the applicant attended school and was employed in the United States from on or about February 1997 through December 1999, the applicant has failed to submit sufficient evidence to establish that he has had a continuous residence or continuous physical presence in the United States from on or after December 1999 to the date of filing his TPS application on August 11, 2003. The employment letter, No. 8, above, 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, it is not in the form of an affidavit and does not provide the address where the applicant resided during the period of his employment. It is also not corroborated by objective evidence such as pay stubs, or employment and tax records. Consequently, the director's decision to deny the application for temporary protected for will be affirmed.

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.