U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] [SRC 04 234 53334] Office: TEXAS SERVICE CENTER Date: OCT 19 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 determined that the application failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods. Finally, the director determined that the applicant failed to submit evidence of his identity and nationality.

On appeal, the applicant submits a statement and additional evidence.

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. 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 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 September 1, 2004.

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. 8 C.F.R. § 244.2(g).

With his initial application, the applicant submitted photocopies of: the biographic page of his Honduran passport issued on July 5, 2001, bearing the stamp of the Secretaria De Relaciones Exteriores, Honduras; generic money order receipts dated in 1998; a Miami-Dade Water & Sewer Department billing notice dated April 13, 1998, that bears no customer name; partial Florida Power & Light Company billing statements dated March 5, 1998 and June 3, 1998; and, four money transfer receipts dated in 1998.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on September 22, 2004.

On appeal, the applicant states that he has lived in the United States since 1997, and would like to be given "the opportunity to be legal in this country in which with a lot of difficulty [he has] lived here without having a better opportunity in employment." He states that he did not apply during the initial registration period because he lacked information and feared being deported. In support of the appeal, the applicant submits photocopies of the following documentation: his State of Florida Identification Card issued on September 22, 2004; generic money order and store receipts dated in 1999 and 2000; United States Postal Service receipts dated in 1999; two pay stubs dated in 1999; and, a certificate dated June 10, 1999 for an English language class.

The applicant submitted evidence in an attempt to establish his qualifying 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, Application for Temporary Protected Status, within the initial registration period. It is noted that on the Form I-765, Application for Employment Authorization, the applicant indicated both his manner of entry into the United States and his current immigration status as entry without inspection (EWI), while on the Form I-821, the applicant indicated that he entered the United States without inspection, and listed his current immigration status as an F-1, nonimmigrant student. The applicant, however, presented no evidence to substantiate that he had been granted any type of nonimmigrant status. 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 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 director determined that the applicant failed to submit sufficient evidence establishing his qualifying continuous residence and continuous physical presence in the United States, and denied the application on September 22, 2004.

On appeal, the applicant asserts that he has lived in the United States since 1997, and submits the evidence identified above.

The applicant has failed to submit sufficient credible evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The money orders and receipts are generic and do not contain verifiable information about the applicant or the source of the documentation. In addition, some of the documentation 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). In addition, the applicant's passport indicates that it was issued to him in Honduras on July 5, 2001, thereby precluding a favorable finding as to his continuous residence and continuous physical presence in the United States during the requisite periods. The applicant has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

Finally, the director determined that the applicant failed to submit a copy of his birth certificate, with English translation, driver's license, photo identification, or a national identity document bearing a photograph and/or fingerprint. On appeal, the applicant submits a photocopy of his State of Florida Identification Card issued on September 22, 2004. The record also contains a photocopy of the biographic page of a Honduran passport issued on July 5, 2001. The applicant has, therefore, submitted sufficient evidence to establish his identity and nationality.

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 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.