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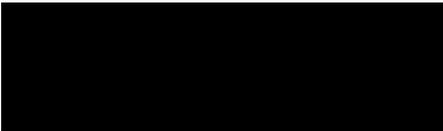
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 211 52546]

Office: VERMONT SERVICE CENTER

Date: SEP 12 2005

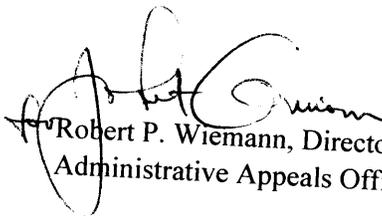
IN RE: Applicant: [REDACTED]

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, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated to be 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.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, Don Manuel Immigration Consultants is not authorized under the regulations at 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, he shall be considered as self-represented and the decision shall only be furnished to him.

The director determined that the applicant failed to establish he had continuously resided in the United States since December 30, 1998 and been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant submits a statement from his mother. She acknowledges that she is unable to obtain the documents requested for her son by the director because the applicant did not arrive in this country until February 20, 2000. She requests that his case be reconsidered and approved.

Section 244(c) of the Act, and the related regulations at 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 in the United States 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 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 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).

On September 16, 2002, the director issued a Notice of Intent to Deny requesting that the applicant submit evidence to establish continuous physical presence in the United States. The applicant did not respond to that

request. On July 3, 2002, as part of the adjudicative process for the applicant's Form I-765, Application for Employment Authorization, the applicant was requested to show that he had established residence in the United States as of December 30, 1998. In response, the applicant submitted:

1. An affidavit dated August 2, 2002 from [REDACTED] in Bay Shore, New York who states that she is the applicant's friend and that she knows that the applicant has been living in the United States from March 1998 to the present time.
2. An affidavit dated July 20, 2002 from [REDACTED] in Brentwood, New York who states that she is the applicant's friend and that she knows that he has been living in the United States from March 1998 to the present time.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on September 11, 2003. On appeal, the applicant's mother reasserts his claim.

Normally, affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence. The above affidavits are of no value in this matter as the affiants both attest to having known the applicant to be living in the United States before February 20, 2000, when he claims to have arrived in this country. 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 indicates on his Form I-821, Application for Temporary Protected Status, that he did not enter the United States until February 20, 2000. Additionally, on her Form I-821 the applicant's mother signed on July 24, 1999, she stated that her son was residing in Honduras. Therefore, he cannot establish continuous residence in the United States since December 30, 1998, or continuous physical presence in the United States since January 5, 1999. The applicant has not submitted sufficient evidence to establish his continuous residence or continuous physical presence in the United States. He has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c) (*supra*). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his eligibility for late registration. While regulations allow the spouse or child of a TPS beneficiary to file an application after the initial registration period, these regulations do not relax the requirements for eligibility for TPS. In this case, the applicant is still required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). As indicated above, the evidence presented by the applicant does not establish his continuous residence since December 30, 1998 and his continuous physical presence from January 15, 1999, to the date he entered the United States. It is determined that he is ineligible for late initial registration and his application shall be denied for this additional reason.

Also, it is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of Honduras. The applicant has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the application shall be denied for this final reason.

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.