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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **APR 27 2007**
[WAC 05 139 73900]

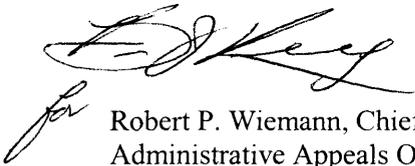
IN RE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims 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.

The director denied the application because the applicant had failed to respond to a request to submit evidence to establish: (1) that he was eligible for late registration; (2) his nationality and identity; and (3) that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present from January 5, 1999, to the date of filing the application.

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 alien 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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, 2007, 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 shows that the applicant filed his TPS application on February 16, 2005.

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).

In a notice of intent to deny dated April 2, 2006, 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 failed to respond; therefore, the director denied the application on August 10, 2006.

On appeal, the applicant asserts that he received the notice requesting for additional evidence late. He submits 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 Application for Temporary Protected Status within the initial registration period.

The applicant neither addressed nor 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 TPS application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant is a citizen or national of Honduras.

Although the record of proceeding contains a Honduran birth certificate and English translation, the certificate was not accompanied by photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1).

In a notice of intent to deny dated April 28, 2006, the applicant was requested to submit evidence to show that he is a citizen or national of Honduras. The director listed examples of evidence the applicant could submit to establish citizenship and nationality. The applicant failed to respond; therefore, the director denied the application on August 10, 2006.

On appeal, the applicant neither addressed nor submitted any evidence to establish his citizenship and nationality. Consequently, the director's decision to deny the TPS application on this ground will also be affirmed.

The third issue in this proceeding is whether the applicant has established continuous residence in the United States since December 30, 1998, and continuous physical presence from January 5, 1999, to the date of filing the application.

The applicant has submitted no evidence of residence and physical presence to support his TPS application. In a notice of intent to deny dated April 28, 2006, the applicant was requested to submit evidence to establish continuous residence and continuous physical presence in the United States during the requisite period. The applicant failed to respond; therefore, the director denied the application on August 10, 2006.

On appeal, the applicant submits the following:

- (1) A copy of a Sprint statement dated May 23 [no year is shown]
- (2) A copy of a pay statement from [REDACTED] Riverdale, CA; the date of the statement is not shown.
- (3) A copy of a pay statement from [REDACTED] Riverdale, CA, dated August 28, 2004.
- (4) A copy of a generic receipt dated January 1, 2005.
- (5) A letter of employment dated August 29, 2006, from [REDACTED] of ADEPT Painting & Plastering Inc., San Juan Bautista, CA, indicating that the applicant is an employee of the company as a painter since 1999.

The documents listed in Nos. (1) and (2) above are not dated; therefore, it cannot be accepted as credible evidence. The employment letter, detailed in No. (5) above, has little evidentiary weight or probative value as it did not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter was not in affidavit form, it was not attested to by the employer under penalty of perjury, did not provide

the address or addresses where the applicant resided during the period of his employment, the exact period(s) of employment, and the periods(s) of layoff, if any. Moreover, the letter was not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since February 1998. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support his claim; however, no such evidence has been provided. The remaining evidence only establishes the applicant's residence and physical presence since August 2004.

Accordingly, the applicant has failed to establish that he has met the criteria for continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will also be affirmed.

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.