

identifying data deleted to  
prevent clearly **unwarranted**  
invasion of personal **privacy**

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



M1

FILE:



Office: VERMONT SERVICE CENTER

Date:

**AUG 24 2007**

[EAC 06 313 75529]

IN RE:

Applicant:



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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant is a native and citizen of Honduras who is applying for 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 he was eligible for late initial registration. The director also found that the applicant had not established that he had been continuously physically present in the United States since January 5, 1999 and that he had continuously resided in this country since December 30, 1998.

On appeal, the applicant states that he considers himself eligible for TPS, that his family needs for him to be granted the benefit, and he doesn't want to have to have to worry about being deported

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.

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.

Upon initial submission, the application provided the following documentation:

1. Two letters dated July 19, 2006, from [REDACTED] of the firm Builder's In Paradise located in Panama City Beach, Florida. [REDACTED] states that the applicant worked with him for approximately two years as one of the company's subcontractors and explains why his firm has no employment records for [REDACTED]
2. A letter from the applicant and his wife explaining that he was arrested two times for driving without a driver's license and one other time for driving without a license plate or a driver's license. The letter indicates that for the first two times, he had to go to court and pay a fine but for the last arrest, he had to pay a fine and spend the weekend in jail.
3. A copy of the applicant's marriage license to marry [REDACTED] that was issued on February 27, 2006, by the County Clerk, Harris County, Texas, evidencing that they were married on March 20, 2006.
3. A copy of a residential gas bill dated July 14, 2006, in his wife's name for a residence in Panama City, Florida.

The VSC Director sent a Notice of Intent to Deny to the applicant on November 24, 2006 requiring him to submit additional evidence to establish that he qualifies for late initial registration and that he had continuously resided and was continuously physically present in the United States during the required period. In response, the applicant provided the following additional documentation:

4. Another letter dated December 8, 2006, from [REDACTED] of the firm Builder's In Paradise located in Panama City Beach, Florida. [REDACTED] states that the applicant has been in the United States for at least two years, that he worked for several companies as a subcontractor and that he has been a valuable employee and a good friend.
5. A letter dated December 8, 2006, from [REDACTED] the owner of Oseguedas Carpentry in Houston, Texas. [REDACTED] states that the applicant worked for him on and off from August 1, 1998 to April 18, 2003.
6. A letter from the applicant's wife dated December 12, 2006 indicated that he has been in this country for at least 3 and one-half years.
7. A copy of a State of Texas certificate of birth showing that [REDACTED] was born in Houston on December 3, 2005, with an explanation that the applicant's name could not be on the certificate because he did not have a Social Security number or identification.
8. A copy of a Forms I-797C, Receipt Notice, showing that on December 20, 2004, a Form I-821, Application for Temporary Protected Status, and a Form I-765, Application for Employment Authorization, for the applicant were rejected because they were forwarded with a single remittance.
9. A letter from [REDACTED] dated December 8, 2006, who states he has known and worked with the applicant since 2003.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on January 31, 2007.

On appeal, the applicant reasserts his claim but forwards no additional documentation.

The employment letters from [REDACTED] and [REDACTED] (Items 1, 3, 4 and 5 above) have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letters are not in affidavit form and are not signed and attested to by the employers under the penalty of perjury. Additionally, neither employment letter provides the address where the applicant resided during the period of his employment. Additionally, letters from acquaintances are not, by themselves, persuasive evidence of continuous residence or continuous physical presence.

The applicant has not submitted evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from July 30, 1998 when he indicated that he entered this country to 2006, when he applied for and received his license to marry. 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.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed his application with Citizenship and Immigration Services on September 9, 2006.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

As stated above, on November 24, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country. However, he did not submit any evidence to establish that he was eligible for late initial registration.

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is for this additional reason.

Beyond the decision of the director, by the applicant's own admission, he has been convicted of at least three misdemeanor offenses in the United States (Item 2 above). An applicant who has been convicted of at least two misdemeanors or one felony in the United States is ineligible for TPS. 8 C.F.R. § 244.4(a). Therefore, because he has been convicted of at least three misdemeanor offenses, the application shall not be approved for this additional 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 cited 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.