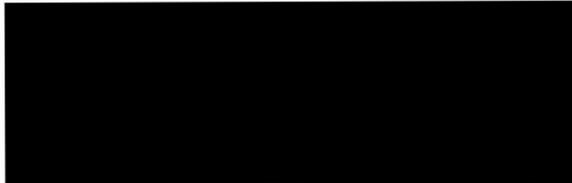




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 137 76952]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: **JAN 03 2007**

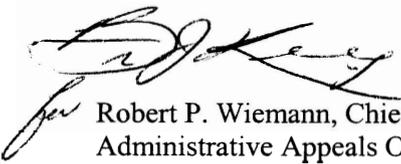
IN RE: Applicant: [REDACTED]

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 establish: (1) eligibility for late registration; (2) nationality and identity; and (3) 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.

On appeal, the applicant submits a statement and additional evidence including evidence previously furnished and contained in the record of proceeding.

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 and Nicaraguans 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 initial TPS application on February 14, 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 (NOID) dated March 17, 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 was also requested to submit evidence to establish nationality and identity, and evidence to establish 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 director determined that the evidence furnished in response to the NOID was insufficient to establish eligibility for late registration, identity, and residence and physical presence. He noted that the applicant stated

that he is the son of an alien currently registered for TPS; however, the birth certificate does not indicate the father. The director, therefore, denied the application on May 1, 2006.

On appeal, the applicant reiterates that he is the son of [REDACTED] who has been granted TPS. A copy of the Employment Authorization Card issued to Mr. [REDACTED] (file number [REDACTED]) was previously furnished by the applicant in response to the director's NOID.

While regulations at 8 C.F.R. § 244.2(f)(2)(iv) allow children of aliens who are TPS-eligible to file applications after the initial registration period had closed, these regulations do not relax the requirements for eligibility for TPS. As noted by the director, the name of the applicant's father was not listed on the birth certificate. Nor did the applicant furnish a marriage certificate as evidence that Mr. [REDACTED] and the applicant's mother were married. Section 101(a)(48)(b) of the Act. Additionally, even if the applicant is, in fact, the legitimate son of Mr. [REDACTED] it is noted that the applicant was born on May 12, 1979. Section 101(b)(1) of the Act defines the term "child" to mean an unmarried person under 21 years of age. The applicant turned 21 years of age on May 12, 2000. As provided in 8 C.F.R. § 244.2(g), the applicant had a 60-day period immediately following his 21st birthday to file an application for late registration to meet the requirement described in 8 C.F.R. § 244.2(f)(2)(iv). However, the TPS application was not filed until February 14, 2005. Accordingly, the applicant, during the initial registration period, did not meet the qualification of a child of an alien currently eligible to be a TPS registrant described in 8 C.F.R. § 244.2(f)(2)(iv).

The applicant has failed 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.

In a notice of intent to deny dated March 17, 2006, the applicant was requested to submit evidence to establish his nationality and identity. In response, the applicant failed to submit evidence to establish nationality and identity, although the director listed in the NOID examples of the evidence he could submit.

The director determined that the applicant had failed to establish that he is a citizen or national of Honduras and denied the application on May 1, 2006.

On appeal, the applicant resubmits a copy of his Honduran birth certificate. However, the certificate was not accompanied by an English Translation as required by 8 C.F.R. § 103.2(b)(3), nor did the applicant submit photo identification to establish his nationality and identity as required by 8 C.F.R. § 244.9(a)(1). 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 record shows that the applicant submitted the following documents with his TPS application in an attempt to establish continuous residence and continuous physical presence in the United States:

- (1) A statement dated December 13, 2004, from [REDACTED] indicating that he worked for [REDACTED] and he hired the applicant to work as his assistant from March 1998 to July 1998. [REDACTED]

- (2) Copies of earnings statements from [REDACTED] Inc., Corona, California, dated January 5, 2001; January 19, 2001; and February 2, 2001.
- (3) A copy of an earning statement from [REDACTED] Inc., Arlington, Texas, dated May 17, 2001.
- (4) Copies of earnings statements from [REDACTED] Inc., Las Vegas, Nevada, dated September 14, 2001, and June 21, 2002.
- (5) Copies of earnings statements from [REDACTED] Inc., Las Vegas, Nevada, dated February 14, 2002; January 2, 2003; and May 8, 2003.
- (6) A copy of an earning statement from [REDACTED] Company, San Jose, California, dated August 1, 2004.

In a notice of intent to deny dated March 17, 2006, the applicant was requested to submit additional evidence to establish 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, in response, failed to submit additional evidence of his residence and physical presence.

The director determined that the applicant had failed to establish continuous residence and continuous physical presence during the requisite period and denied the application on May 1, 2006.

On appeal, the applicant asserts that on or about late November 2000, his home burned and he lost everything in the fire, including original documents to support his residency. He resubmits the documents listed as Nos. (1) through (6) above. He also submits:

- (7) A statement dated May 1, 2006, from [REDACTED] residing at [REDACTED] in San Jose, California, stating that he has known the applicant since December 1, 1998, that they met while the applicant was unemployed, that he gave him support, such as room and board, and that the applicant paid rent for about two years.

While the applicant states that his home burned in November 2000, it appears from the statement of Mr. [REDACTED] (No. 7 above) that the applicant was residing with him during that period. However, Mr. [REDACTED] did not mention the fire, or indicate that it was his home that burned.

The applicant has failed to submit sufficient evidence 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.