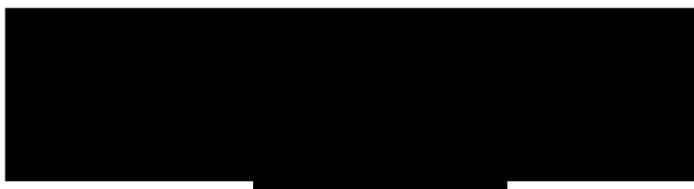




U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JUL 16 2007  
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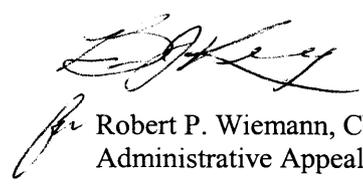
IN RE: Applicant: [REDACTED]

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, 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 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 had failed to establish that he: (1) was eligible for late registration; (2) is a national of Honduras; and (3) 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 resubmits 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 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 January 5, 2009, 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 July 15, 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 he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

In a notice of intent to deny dated July 13, 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 director determined that the applicant, in response, had failed to provide evidence to establish eligibility for late registration and denied the application on September 7, 2006.

On appeal, the applicant asserts that he is a Honduran citizen who entered the United States in 1998, he is a minor under the care of his uncle, and that due to financial hardship, he was unable to register during the initial registration period. He requests that he be granted TPS and employment authorization in order to gain lawful employment to continue helping his family in Honduras as well as to continue his education. The

applicant resubmits evidence previously furnished in an attempt to establish residence and physical presence during the requisite period.

The evidence furnished, however, does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. 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 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 July 13, 2006, the applicant was requested to submit evidence to establish that he is a citizen or national of Honduras. The director listed examples of evidence the applicant could submit to establish citizenship and nationality. In response, the applicant submitted a copy of a Honduran passport issued to the applicant on February 8, 2005,<sup>1</sup> in Honduras; a copy of a State of Florida Identification Card issued on October 4, 2005; and a copy of a State of Florida Learner [driver] License dated November 17, 2006.

The applicant has, therefore, overcome this ground for denial.

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.

In a notice of intent to deny (NOID) dated July 13, 2006, the applicant was requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite period. The director listed in his decision the evidence furnished by the applicant in response to the NOID, and noted that the evidence shows only dates of 2005 and 2006. The director determined that the applicant had failed to provide sufficient evidence to establish residence and physical presence since December 30, 1998, and denied the application on September 7, 2006.

On appeal, the applicant requests reconsideration and resubmitted the evidence previously furnished and addressed by the director in his decision.

The applicant has failed to establish that he has met the criteria for continuous residence in the United States 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.

It is noted that the applicant's passport was issued in Honduras on February 8, 2005. It is further noted that none of the evidence furnished to establish residence and physical presence in the United States preceded February 8, 2005, the date of issuance of the Honduran passport. Therefore, it appears that the applicant was not present in the United States during the period required to establish continuous residence and continuous physical presence described in 8 C.F.R. 244.2(b) and (c).

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<sup>1</sup> The director erroneously stated in the denial decision that the Honduran passport was issued on November 23, 1988. This date is the applicant's date of birth, not the date of issuance of the passport.

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.