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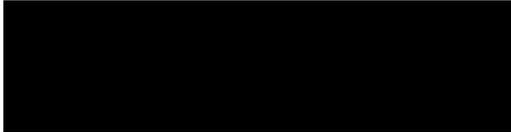
U.S. Department of Homeland Security  
20 Mass. Ave. N.W., Rm. 3000  
Washington, DC 20529



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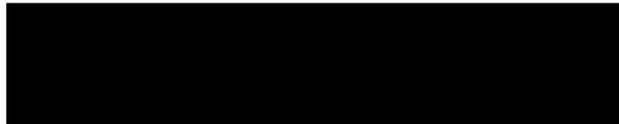


FILE: [REDACTED]  
[EAC 06 255 84025]

Office: VERMONT SERVICE CENTER

Date: NOV 26 2007

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 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, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) 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 registration. The director also denied the application because the applicant failed to establish his qualifying continuous residence and his continuous physical presence in the United States.

On appeal, the applicant asserts his claim of eligibility for TPS.

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 TPS 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 parole; 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.

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 December 15, 2006, the applicant was requested to submit evidence to establish 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 establishing his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. The applicant was also requested to submit a copy of his identity document.

In response, the applicant submitted copies of the following documentation: the biographical pages of his Honduran passport (indicating that he was born in that country on March 6, 1989); his Employment Authorization Document (EAD); an Approval Notice dated December 14, 2006, regarding his employment authorization; EADs issued to his mother, [REDACTED] his mother's Form I-94; his immunization record; a letter in Spanish dated January 24, 2004, from [REDACTED] a Miami-Dade County Public Schools Official Hall Pass dated September 4, 2003; and, his school grade reports from 2003 to 2007.

The director determined that the applicant failed to establish his eligibility for TPS late registration as well as his continuous residence and continuous physical presence in the United States from the requisite dates in 1998 and 1999. Therefore, the director denied the application on February 6, 2007.

On appeal, the applicant states that he has answered all the requests from Citizenship and Immigration Services (CIS). The applicant further states that he has been physically present in the United States since 2003, and that his mother applied for TPS in 1998. The applicant submits copies of previously provided documentation.

The first issue in this proceeding is whether the applicant is eligible for late registration. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with CIS, on June 1, 2006, almost seven years after the initial registration period had closed.

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

On appeal, the applicant states that his mother applied for TPS during the initial registration period. The applicant also provided copies of her EADs. A review of his mother's record confirms that she filed for TPS in April 1999, that she was granted TPS on June 17, 2000, and that she has re-registered for TPS up to the present. Accordingly, the applicant has established his eligibility for late registration under in 8 C.F.R. § 244.2(f)(2)(iv).

In addition to meeting the criteria for late registration, however, the applicant must also establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999, to the date of filing his application.

The evidence submitted by the applicant all post-dates the beginning of the requisite time periods for qualifying continuous residence and continuous physical presence in the United States. The record contains a copy of the applicant's passport, which was issued to him in Honduras on August 3, 2000, and the applicant states on appeal that he has been living in the United States since 2003. Furthermore, the applicant's mother stated on her applications for TPS, filed on April 9, 1999, and on May 23, 2001, that the applicant was residing in Honduras at those times. Thus, the record clearly shows that the applicant has not been continuously resident in the United States since December 30, 1998, and continuously physically present in the United States since January 5, 1999, as required for Honduran nationals under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's decision to deny the application for these reasons must 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.