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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: SEP 25 2007
[EAC 06 216 72332]

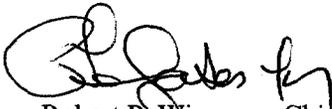
IN RE: Applicant: [REDACTED]

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, Vermont 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 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 continuous physical presence in the United States.

On appeal, the applicant asserts his claim of eligibility for TPS and submits some evidence in an attempt to support his claim.

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 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).

On December 1, 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.

In response, the applicant submitted copies of the following: the biographical page of his Honduran passport; several Western Union money transfer receipts dated November 16, 2002, April 20, 2003, October 5, 2003, and May 22, 2005; a FedEx receipt dated May 18, 2005; two United States Postal Service Register Mail receipts postmarked September 3, 2002, and October 2, 2002; four hand-written receipts dated September 26, 2002, October 25, 2002, December 10, 2002, and December 18, 2002; the front of envelopes addressed to the applicant bearing postmark dates of October 4, 2002, November 11, 2002, November 15, 2002, and December 20, 2002; a United States Postal Service Express mail receipt dated April 20, 2004; a billing statement from St. Lucie County

Fire District dated August 28, 2005; and, various cash register and money order receipts that do not bear any name.

The director determined that the evidence submitted was insufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. The director also determined that the applicant failed to establish his eligibility for TPS late registration. Therefore, the director denied the application on December 9, 2007.

On appeal, the applicant asserts that he has lived in the United States since 1997, and that he has answered all the requests from CIS. The applicant also provides the following copies of documentation: two Western Union money transfer receipts dated October 30, 2002, and January 19, 2005; a receipt dated December 3, 2004, from Lexicon Marketing Procurement, Limited; a receipt from the Division of Driver Licenses dated August 24, 2004; a hand-written receipt from Professional Wireless dated September 13, 2003; the front of an envelope bearing a postmark dated March 18, 2003; and, copies of various cash register and money order receipts that do not bear any name.

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 May 4, 2006, 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.

The applicant submits some evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. 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 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 application for TPS late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence and continuous physical presence in the United States.

The various cash register and money order receipts submitted by the applicant do not bear any name; therefore, have little, if any, evidentiary weight in this proceedings. The remainder of the submitted documentation post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient credible evidence to establish his continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

Moreover, a review of the record of proceedings reflects that the applicant was apprehended by United States Border Patrol on June 29, 2002, near Hebbronville, Texas. The applicant had stated to the agents that he entered the United States from Mexico by wading across the Rio Grande River en route to Houston, Texas. Therefore, the applicant could not have met the requirements that he had continuously resided in the United States since December 30, 1998, and he had been continuously physically present in the United States since January 5, 1999. Consequently, the director's decision to deny the application for these reasons must also be affirmed.

It is also noted that the applicant was granted voluntary departure, with an alternate order of deportation, until October 29, 2004, by an Immigration Judge at Miami, Florida on June 29, 2004. In addition, the record of proceedings contains a Warrant of Removal issued on May 20, 2005.

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.