



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 07 305 70975]

OFFICE: Vermont Service Center

Date: FEB 04, 2008

INRE: 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 (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant initially filed Form 1-821, Application for **Temporary** Protected Status on July 15, 2005, under CIS receipt number WAC OS 288 70566. The application was denied by the Director, California Service Center, on May 16, 2006 **because** the evidence that the applicant submitted in response to the Notice of Intent to Deny was insufficient to establish eligibility for TPS.

The applicant filed the current TPS application, EAC 07 305 70975, on July 23, 2007 as a new **application**. The director denied the application on September 18, 2007 because the applicant failed to establish that he was eligible to take advantage of the late registration provision of the TPS regulation. The director also found that the applicant had failed to establish his **qualifying** continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant submits additional evidence and requests CIS to reconsider his TPS application.

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 of a 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 Temporary Protected Status 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. The designation of TPS for Hondurans has been extended several times, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite time period.

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 proceedings 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(£)(2) above.

The applicant was **requested** to submit evidence establishing his **eligibility** for late registration as set forth in 8 C.F.R. § 244.2(£)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. On April 17, 2006, the applicant submitted the following evidence:

1. A copy of a birth certificate for the applicant's son showing that he was born in Prince Georges, Maryland, on October 11, 1999;
2. Copies of letters from [REDACTED] stating that they have known the applicant since 1999;
3. Copies of Verizon cellular phone bills for the year 2001 and 2002;
4. Copies of an earnings statement for the year 1999;
5. Copies of W-2 Wage and Tax Statements for the years 1999 and 2000;
6. Copies of Tax Return Form 1040EZ for the years 1999 and 2000.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on September 18, 2007.

On appeal, the applicant asks CIS to reconsider his application for TPS.

The applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. 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(£)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

As **stated** above, the applicant was requested to submit evidence establishing his qualifying continuous residence **and** continuous physical presence in the United States. In response, the applicant submitted **the** following documentation:

1. A copy of his Honduran passport;
2. A copy of an un-translated letter from IRS, for ITIN [REDACTED];
3. Another copy of the applicant's son's birth certificate;
4. A copy of a money transfer receipt from Western Union dated November 10, 2001;

5. Copies of pay stubs issued by _____ to the applicant under SSN _____, dated May 13, 1999 to May 19, 1999, May 16, 1999 to May 22, 1999, May 23, 1999 to May 29, 1999, May 30, 1999 to June 5, 1999, and June 6, 1999 to June 12, 1999;
6. A copy of a 1999 W-2 Form from Advance Tenant Service, Inc.;
7. A copy of a 1999 Form 1040EZ, Personal Income Tax;
8. A copy of a 1999 Form 502 Resident, Maryland Tax Return. .

The director concluded that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant states that this application is to re-register for TPS and asks that his TPS card be sent to him.

The pay statements reflect wages paid to the applicant under Social Security Number _____ however, the applicant stated on his initial TPS application, submitted on July 15, 2006, and a subsequent TPS application that he did not have a Social Security number. The tax returns submitted by the applicant are not certified, and the AAO cannot determine if they are **authentic** or contemporaneous with the dates listed. The applicant claims to have lived in the United States **since** 1998. It is reasonable to expect that he would have some other type of contemporaneous evidence to support these claims. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of **the** remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). In this case, the evidence submitted by the applicant is not credible. The record does not explain or contain any objective evidence to explain or justify the inconsistencies detailed above. The reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish eligibility for TPS.

The applicant has not submitted any evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite period. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS 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 TPS 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.