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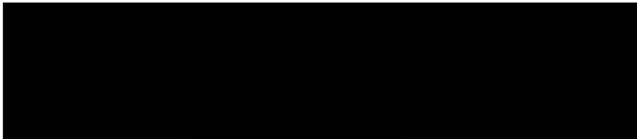
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
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Services

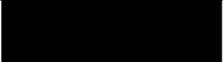
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JAN 06 2009

FILE:



Office: VERMONT SERVICE CENTER

Date:

[EAC 07 141 70048]

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 Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom, Acting 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 director determined that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant requests that his case be reopened because he has answered all the documents received from USCIS.

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 as 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 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 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.

*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.

*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. 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 period.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The applicant filed his initial TPS application on May 19, 2003. The Director, Vermont Service Center denied the application on October 27, 2003. The applicant filed an appeal on November 19, 2003. The AAO denied the appeal on November 1, 2004. The applicant filed a subsequent TPS application on June 3, 2003. The Director, Vermont Service Center denied that application on November 1, 2004. The applicant filed a motion to reopen the decision on April 13, 2005. That motion was dismissed on October 2, 2006. The record shows that the applicant filed this TPS application on February 19, 2007.

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 United States Citizenship and Immigration Services (USCIS). 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). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On the applicant's initial filing for TPS on May 19, 2003, the applicant claimed to be single. However, on appeal, the applicant claimed he married a TPS-eligible alien, [REDACTED], on April 2, 1997 in Honduras. The record includes a copy of the marriage certificate, with English translation for this marriage. The applicant also claimed to have been married in Virginia on October 18, 2003 to [REDACTED]. These discrepancies have not been satisfactorily explained. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant asserts on appeal that he is eligible for TPS because his wife, a citizen of El Salvador, is eligible for TPS. However, a marriage alone, to a TPS registrant, does not render the applicant eligible for the benefits being sought. The applicant is a citizen of Honduras, therefore, he must meet the eligibility requirements for Hondurans, including registering during the period for designated citizens of that country. 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). Therefore, the director denied the application.

On appeal, the applicant requests that his case be reopened. According to the applicant, he has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application 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 conclusion that the applicant failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are 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 from January 5, 1999.

In support of his appeal of the initial denial, the applicant submitted the following documentation:

1. Copies of money order receipts dated from November 4, 1998 to February 6, 2006.

2. Copies of a Honduran marriage certificate dated April 2, 1997 with English translation.
3. Copies of hand-written rent receipts dated May 15, 1998, June 18, 1998, September 10, 1998, December 12, 1998, February 20, 1999, March 17, 1999, April 14, 1999, October 1, 1999, and December 1, 1999, and retail store receipts for the period from December 5, 1998 to December 20, 2000.
4. A May 8, 2003 letter from [REDACTED] that the applicant was employed at Air Cartage Systems, Inc. from June 8, 1998 to September 25, 1998.
5. Copies of a monthly rental agreement dated May 15, 2000, a Virginia Motor Vehicle Registration issued on June 2, 2003, and Chevy Chase Bank Cash Cards issued in September 2002 and February 2003
6. Copies of federal tax forms for 2003, 2004, and 2005, and 2001 and 2002 Virginia Individual Income Tax Return Summaries.
7. Copies of a Dominion Virginia Power bill dated December 29, 2001, a County of Loudon Personal Property Tax Bill for 2003, a Victoria Insurance bill with a due date of January 3, 2004, a Sprint bill dated March 31, 2005, an AllAmerica Personal Automobile Policy for a policy period from January 12, 2006 to January 12, 2007, and, an AIG Auto Insurance bill dated January 28, 2007.
8. Copies of a Commonwealth of Virginia Certificate of Live Birth of the applicant's daughter with a birth date of May 22, 2005.
9. A copy of the applicant's Honduran passport.

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

10. Copies of a DMV receipts dated April 26, 2005 and March 27, 2006, a Virginia Driver's License issued on April 11, 2007 and an Internal Revenue Service Individual Taxpayer Identification Card.
11. Copies of a letter from [REDACTED], Assistant Principal Sterling Elementary School dated June 2, 2006, and a letter from [REDACTED] Project Manager, Dominion, dated December 8, 2003.
12. Copies of money transfer receipts dated from August 14, 1998 to April 1, 2006.

13. Copies of a D&B Rental Contract dated April 27, 2006, a Chantilly Turf Farms, Inc. receipt dated April 5, 2006, a [REDACTED] Automotive invoice dated March 24, 2005, and a Herndon Automotive Invoice dated March 23, 2005.
14. Copies of a Virginia Motor Vehicle Registration with an expiration date of September 30, 2004, an undated Town Of Herndon Vehicle Registration, a Loudon County General District Court check receipt dated July 21, 2004, a Keens Insurance Agency bill dated May 24, 2004, and a County of Loudon Personal Property Tax Bill for 2004.
15. Copies of a letter from Sprint dated April 23, 2004, a DHL receipt dated July 6, 20 (year missing), a Nationwide Automobile Insurance Application with a policy effective date of July 8, 2002.
16. Copies of a Chevy Chase Bank Statement of Account dated February 27, 2003, a Commonwealth of Virginia Vehicle Emissions Inspection Report dated January 15, 2003, an undated Loudoun County Personal Property Tax Declaration, pay check stubs dated July 1, 1998 and October 15, 1998

The passport establishes the applicant's identity and nationality. [REDACTED] stated that the applicant was employed at Air Cartage Systems, Inc. from June 8, 1998 to September 25, 1998. However, this statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, [REDACTED] does not provide the address where the applicant resided during the period of his employment. It is further noted that 8 C.F.R. § 244.9(a)(2)(i) provides that letters from employers must be in affidavit form, and shall be signed and attested to by the employer under penalty of perjury. The letter from [REDACTED] does not meet these criteria.

The copies of money order receipts do not show the applicant's name as the purchaser, and the handwritten rent receipts do not show the address of the premises, purportedly rented by the applicant. In addition, they are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since 1981. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The July 1, 1998 and October 15, 1998 pay check stubs are not in the applicant's name and are therefore of no probative value.

The monthly rental agreement indicates a date of May 15, 2000, and is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, the remaining evidence presented is of little or no probative value.

The record shows that the applicant was arrested by the U.S. Border Patrol on February 19, 2001 at Del Rio, Texas. The applicant also stated that he left Honduras on January 15, 2001. Consequently, the applicant has not submitted sufficient evidence to establish his qualifying residence since December 30, 1998 and his continuous physical presence in the United States from January 5, 1999. 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 temporary protected status on these grounds will also be affirmed.

It is also noted that the applicant provided a photocopy of the first page of his passport in an attempt to establish his nationality and his identification. However, the passport was signed by the applicant and issued in Honduras on January 26, 2007. This is further evidence that the applicant has not met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c), thereby precluding a finding that the applicant was in the United States during the operable timeframe.

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.