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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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FILE: [REDACTED] VERMONT SERVICE CENTER
[EAC 08 163 50305]

Date: OCT 21 2009

IN RE: Applicant: [REDACTED]

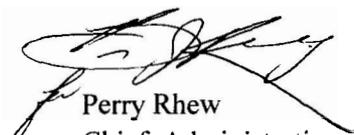
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 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).


Perry Rhew
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 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 that he was eligible for filing his TPS application after the initial registration period, that he had not established his continuous residence and continuous physical presence in the United States during the requisite period, and that he had failed to establish his nationality and identity.

On appeal, the applicant states that he had previously filed for TPS and he is eligible for late TPS registration under the good cause exception.

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 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.

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 with 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 apply 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 July 5, 2010, upon the applicant's re-registration during the requisite period.

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 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 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 initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The applicant filed his initial TPS application on January 5, 2005, after the initial registration period had closed, under receipt number WAC 05 106 78505. On March 21, 2006, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration, evidence establishing his nationality and identity, and his continuous residence and continuous physical presence in the United States during the requisite period. The Director, California Service Center, denied that application on May 9, 2006 because the applicant failed to submit evidence to overcome

these grounds for denial. The record does not reflect that the applicant appealed the director's decision.

The applicant filed the current TPS application on April 30, 2008, also after the initial registration period had closed. As stated above, 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 appeal, the applicant claims that he is eligible for late registration because he had previously applied for TPS and he asserts he is also eligible for TPS under the good cause exception.

A TPS application is not an application for change of status as provided in 8 C.F.R. 244.2(f)(2), and does not render the applicant eligible for subsequent late registration. The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were created in order to ensure that Temporary Protected Status benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. Moreover, there is no "good cause" exception that allows an applicant to file an initial TPS application after the initial registration period. The applicant may be referring to the withdrawal of TPS from applicants previously granted such status who have established that their failure to timely re-register for TPS was for good cause and they had not "willfully" failed to meet the annual re-registration requirements under 8 C.F.R. § 244.17(c). As discussed above, the applicant was not previously approved for TPS status. Therefore, the director's conclusion that the applicant is not eligible for late registration is affirmed.

The second issue in this proceeding is whether the applicant has established his identify and nationality. The applicant has submitted a copy of his birth certificate with English translation and a copy of the biographic pages from his Honduran passport, which was issued in San Francisco on April 30, 2004. Therefore, the applicant has overcome this portion of the director's denial.

The third issue in this proceeding is whether the applicant has submitted sufficient evidence to 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.

The record of proceeding contains five earnings statements in the applicant's name for the period from September 1, 1999 through December 1, 1999; two earnings statements for the period from March 1, 2000 to July 16, 2000; eight earnings statements for the period from January 16, 2001 through December 17, 2001; one earnings statement dated January 2, 2002; a California transfer of title dated August 2, 2004 for an automobile; medical statements dated July 18, 2004 and July 26, 2004; a receipt dated November 18, 2004; an undated letter from Western Union in the Spanish language with no accompanying translation; and photocopies of two documents which are not legible. This evidence is not sufficient to establish the applicant's continuous residence from December 30, 1998 and his continuous physical presence in the United States since January 5, 1999. Therefore, the director's decision to deny the application for these reasons is 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.