

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



M<sub>1</sub>

DATE:

**JUN 02 2011**

Office: VERMONT SERVICE CENTER

FILE:



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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

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

The applicant claims to be 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 denied the application because the applicant failed to establish that he was eligible for late registration. 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 documents in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite periods.

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 Secretary 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 term *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 term *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, 2012, upon the applicant's re-registration during the requisite time period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 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 U.S. 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 reveals that the applicant filed this application with USCIS on May 21, 2010. 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.

At the time the applicant filed his application, he claimed that he was eligible for TPS as he was an adopted child of an alien currently eligible to be a TPS registrant.

On July 15, 2010, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). Specifically, the applicant was requested to submit a copy of his adoption decree as well as evidence of his adopted mother's status as a TPS registrant.

The applicant, in response, submitted:

- A Form I-797, Notice of Action, dated March 27, 1999, relating to the approval of TPS for [REDACTED]
- A Florida driver's license issued on February 4, 2009, and employment authorization card valid through January 5, 2012, in the name of [REDACTED]
- A power of attorney signed August 7, 1998, with English translation from the applicant's parents indicating that they gave their niece, [REDACTED] legal custody of their son, the applicant.

The director determined that the applicant did not qualify as the child of an alien who is currently eligible to be a TPS registrant as the power of attorney did not equate to a legal adoption and no evidence of an adoption decree was provided. The director concluded that the applicant had failed to establish he was eligible for late registration and denied the application on September 20, 2010

On appeal, the applicant does not address the director's finding regarding his ineligibility for late registration. 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 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.

On July 15, 2010, the applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided a Texas apartment association application and lease dated October 1, 2008, which was signed by the applicant on November 28, 1998.

The director determined that the applicant has not provided any corroborating evidence to establish that he had resided at the address listed in the lease. 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 submits:

- A notarized affidavit from a cousin, [REDACTED] who indicated that the applicant was residing at [REDACTED] since November 15, 1998. The affiant asserts that she is aware the applicant is living in Florida as she receives periodic calls from him.
- A notarized affidavit from [REDACTED] who indicates that he has known the applicant since December 4, 1998, and attested to the applicant's residence at [REDACTED]
- Money wire transfer receipts dated December 6, 2007, January 7, 2008, February 11, 2008, March 3, 2008, August 7, 2008, and October 15, 2009.
- Illegible postmarked envelopes.
- A rent receipt dated January 2, 2001.
- A transmittal cover document dated November 24, 1999.
- Several receipts dated in 2000, 2001 and 2002.
- Letters addressed to the applicant dated from November 20, 1998 through April 10, 2010.
- A patient receipt dated October 18, 2010

The affidavits from the affiants are devoid of details that would lend credibility to the affiants' claimed 12-plus year relationships with the applicant and provide no basis for concluding that they actually had direct and personal knowledge of the events and circumstances of the applicant's residence in the United States throughout the requisite periods.

The envelopes submitted have little probative value as the postmarks are indecipherable. It is noted that although the postmark is indecipherable it can be concluded that the envelope containing the 'Forever Stamp' was postmarked subsequent to March 2007.<sup>1</sup> The authenticity of the dated letters can neither be confirmed nor denied as the postmarked envelopes that purportedly accompanied each letter were not provided. The remaining documents are dated subsequent to the eligibility periods and may only serve to establish the applicant's presence in the United States during those times.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite periods. 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

---

<sup>1</sup>. See [http://www.usps.com/communications/newroom/forever\\_stamp\\_facts.htm](http://www.usps.com/communications/newroom/forever_stamp_facts.htm). The Forever Stamp first went on sale in April 2007.

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.