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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

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DATE: NOV 30 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. § 1254a

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.

Thank you,

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 asserts, "I did apply on a timely basis for the first TPS registration period for Honduras but at that time someone stole my identity including my documents and nonimmigrant visa showing my eligibility." The applicant asserts that he entered the United States on December 20, 1998. The applicant submits additional evidence in an attempt to establish his continuous physical presence and continuous residence in the United States.

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 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 AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The first issue to address is whether the applicant is eligible for late registration.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. 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 record reveals that the applicant filed his initial application (SRC021735434) on May 13, 2002. On July 24, 2002, the Director, Texas Service Center, denied the application because the applicant failed to establish that he was eligible for late registration. The AAO, in dismissing the appeal, on February 4, 2003, concurred with the director's findings.

The applicant filed the current application on July 8, 2010. The director determined that the applicant had failed to establish he was eligible for late registration and that he had not provided any new and compelling evidence that overcame the reasons for denying the initial TPS application. Accordingly, the director denied the application on May 18, 2011.

On appeal, the applicant has not provided any evidence to support his assertion of filing a timely TPS application. As noted above, the TPS application filed on May 13, 2002, was submitted over two years after the initial registration period (January 5, 1999, through August 20, 1999) for Hondurans had closed.

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 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 since January 5, 1999.

In an attempt to establish continuous residence and continuous physical presence in the United States during the requisite periods, the applicant submitted the following documents throughout the application process:

- A copy of his old Honduran passport, which indicates that he was admitted into the United States on December 1, 1998, as a temporary worker (H2B).
- Two Forms I-797A indicating that the applicant's H2B visa was valid from May 6, 2000 through November 2, 2000 and April 25, 2001 through November 2, 2001, with [REDACTED] in Sandpoint, Idaho.
- Earnings statements from [REDACTED] for the pay periods ending September 10 and 24, 1999, November 5, 1999, August 4, 2001.
- Wage and tax statements for 1999, 2000 and 2001 from [REDACTED] Inc.
- Two Georgia driver's licenses issued on March 13, 2002, and expiring on April 27, 2002 and March 13, 2004.

- An earnings statement from [REDACTED] in Grand Prairie, Texas for the period ending April 28, 2002.
- A notice from the Department of Motor Vehicle Safety in Conyers, Georgia dated November 20, 2003, regarding the suspension of his driver's license.
- An incomplete document dated May 25, 2010, from the Social Security Administration.
- A letter dated March 12, 2002, from a representative of Bank America in Carrollton, Georgia, indicating that the applicant had opened a savings account.
- An uncertified Form 1040EZ, U.S. Income Tax Return, for 2006.
- An earnings statement for the period ending February 11, 2007, from [REDACTED] in Westport, Connecticut.
- An "Acknowledgement of Paternity" document from the Connecticut Department of Public Health, signed by the applicant on March 9, 2008.
- A gas bill from [REDACTED] for the period February 6, 2009 through February 4, 2009.
- A wage and tax statement for 2010 from [REDACTED]
- A utility bill from [REDACTED] for the period December 16, 2010 through January 17, 2011.

The documents submitted do not establish continuous residence and continuous physical presence in the United States as the Forms I-797A only attest to the applicant's employment for a six-month period during 2000 and 2001. In a statement accompanying his initial TPS application, the applicant indicated that every eight months he would travel to his native country, Honduras. There is also a significant period of time that has not been accounted for namely, 2003 through January 2007. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence and 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 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.