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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**

**PUBLIC COPY**



M,

DATE: **SEP 19 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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office 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 withdrew the applicant's TPS because he failed to establish that he was eligible for late registration and because 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 states, "[i]t is true and accurate statement recorded by U.S.C.I.S., the sworn statement on my behalf, that I departed from the United States to Honduras on December 30, 1998 and returning February 3, 1999 by bus." The applicant asserts that he departed to Honduras to visit his family because of Hurricane Mitch. The applicant asserts that prior to his departure he was employed in Texas on a farm, and that he returned to the United States and resumed his employment on the farm. The applicant submits two affidavits from acquaintances who attested to the applicant's residence in the United States since 1998.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

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 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, through August 20, 1999. The record reveals that the applicant filed this application with USCIS on May 23, 2001. 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.

On appeal, 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 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.

According to the Form I-213, Record of Deportable Alien, the applicant entered the United States without inspection on March 15, 1999. On March 19, 1999, the applicant was apprehended near Laredo, Texas by the U.S. Border Patrol. The applicant indicated that he departed Honduras by bus on February 3, 1999, and legally entered Guatemala with his passport. The applicant indicated that he then traveled through Guatemala to Mexico and illegally entered Mexico at a farm named San Francisco. The applicant indicated that he traveled through Mexico until he reached Nuevo Laredo, Mexico where he spent approximately 15 days. The applicant indicated that he was en route to Miami, Florida to seek employment.

The record contains a copy of the applicant's Honduran passport, which was issued in Honduras on January 29, 1999, and contains an exit stamp of February 3, 1999.

On September 23, 2010, and January 25, 2011, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, asserted, in pertinent part:

I entered in the United States on December 20, 1998, but I was at the border waiting for the people they were passes me until Dallas, TX, where I had relative waiting for me, but the smuggler let me for more the three months I had to work for somebody and had some money, to travel to Dallas.

That it is true that I came illegally and I was apprehended by Laredo North Agents on March 19, 1999 at the US Border Patrol Checkpoint and the following date they release me for humanitarian reasons.

The applicant submitted:

- An affidavit notarized December 9, 2006, from [REDACTED] of Miami, Florida, who indicated that she had rented a room to the applicant since December 1998.
- An additional affidavit notarized October 15, 2010, from [REDACTED] of Miami, Florida, who indicated that the applicant entered the United States in December

1998 “because I had telephone communication with him, when he was in Laredo, Texas working to had money to travel to Miami, FL.”

- Two Forms I-797C, Notice of Action, regarding the filing of his TPS applications.
- A letter dated May 19, 2006, addressed to USCIS inquiring the status of his Form I-246, Application for Stay of Removal.
- A notice dated July 20, 2006, from the Field Director, Miami Field Office, regarding the Form I-246.
- A moneygram purportedly dated January 5, 1999.
- A photograph of the applicant purportedly taken on May 6, 1999.
- A moneygram dated February 10, 2000, and a Western Union money transfer dated July 15, 2000.
- Envelopes postmarked January 5, 2000 and June 8, 2000.

On appeal, the applicant submits affidavits from [REDACTED] and [REDACTED] who attest to the applicant’s presence and residence in the United States since 1998.

The applicant’s statement at the time of his apprehension on March 19, 1999, undermines the credibility of his claim of residence and of the affiants’ affidavits attesting to his residence in the United States from before March 15, 1999. Likewise, the moneygram dated January 5, 1999, has no probative value as the applicant was not in the United States on that date.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has not submitted any credible 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 withdraw 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.

While not the basis for the dismissal of the appeal, it is noted that the record reflects that a removal hearing was held on August 27, 2001, and the applicant was removed *in absentia*.

**ORDER:** The appeal is dismissed.