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



U.S. Citizenship
and Immigration
Services

DATE: **MAY 12 2014**

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
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 denied the application because the applicant had failed to establish he had continuously resided in the United States since December 30, 1998 and he had been continuously physically present in the United States since January 5, 1999.

On appeal, counsel asserts that the applicant was not aware of the TPS benefit or that he was eligible to apply. Counsel states that the applicant has continuously resided and has been continuously physically present in the United States during the requisite periods, and that he has previously submitted evidence to establish these facts. Counsel states that as an undocumented immigrant, it is difficult for the applicant to obtain additional evidence. Counsel requests that the TPS application be reconsidered.

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, 2015, 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. 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 this application with USCIS on September 17, 2012. Along with his application, the applicant provided an affidavit indicating, in pertinent part:

I am filing for late TPS registration because I was unable to file during the open registration period. Prior to the most recent registration period I was unaware of the process and did not have the money to seek assistance. Once I was in a position to see (sic) legal assistance I tried to work with several attorneys to file for TPS during the registration period. Unfortunately, those attorneys would not help me, even though I paid them.

On February 12, 2013, 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). Counsel, in response, referred to the applicant's affidavit that included his reason as to why he was unable to file for TPS during the designated period.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on June 13, 2012.

The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that he has met any of those provisions outlined in 8 C.F.R. § 244.2(f)(2). There is no provision to waive the registration requirement based on the applicant's assertion that he lacked knowledge of the immigration laws. Further, if the applicant was not able to afford the filing fee, nothing prevented him from applying for a fee waiver as indicated on the instructions to the Form I-821, Application for Temporary Protected Status. 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. Along with his TPS application, the applicant, in an attempt to establish continuous residence and continuous physical presence during the requisite periods, submitted the following:

- A driver's license issued on November 15, 2010 from the Commonwealth of Virginia.
- An affidavit with English translation from [REDACTED] who indicated that he has known the applicant since October 1998 through their employment at [REDACTED]. The affiant indicated that he has maintained a friendship with the applicant throughout the years.

- An affidavit from [REDACTED] who attested to the applicant's residence at [REDACTED] Richmond, Virginia from December 1998 to February 1999.
- An affidavit from [REDACTED] who indicated that she has known the applicant since 2000 and has remained friends since that time.
- An affidavit from [REDACTED] of Surry, Virginia, who indicated that the applicant did repair work for her in 2000.
- A certificate of completion dated March 28, 2001.
- Several [REDACTED] money transfers dated in 2001 through 2004, 2006, through 2009 and 2011.
- An affidavit from an individual with an indecipherable name, indicating that the applicant was employed in 2005 "working on the bld, painting, roofwork and regular maintenance."
- A billing statement from [REDACTED] dated October 30, 2007 for residence at [REDACTED] Richmond, Virginia.
- Personal Property Tax Statements for 2008 and 2011 from the City of Richmond, Virginia.
- An Acknowledgment of Paternity from the Commonwealth of Virginia, Department of Health/Division of Vita Records dated November 7, 2007.
- An application dated November 7, 2006 from the Tennessee Department of Safety Title and Registration Division.
- A letter dated November 15, 2009 from [REDACTED] who indicated that the applicant has been employed with [REDACTED] for over 15 months.
- Earnings statements from [REDACTED] of Knoxville, Tennessee for the periods ending September 17, 2006 through January 14, 2007.
- A bank statement from [REDACTED] for the period December 14, 2006 through January 12, 2007.
- A payment receipt dated April 23, 2009, and a six-month vehicle insurance policy from [REDACTED] effective May 15, 2009.
- An invoice dated March 26, 2007 from [REDACTED] of Richmond, Virginia.
- Federal and state income tax returns for 2006, 2008 through 2011.
- A receipt dated November 18, 2011, for vehicle registration from the Department of Motor Vehicles (DMV).

The applicant was requested on February 12, 2013 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the counsel indicated that the applicant had submitted sufficient evidence at the time his TPS application was filed. Counsel submitted an affidavit from [REDACTED], owner of [REDACTED] in Richmond, Virginia, who indicated that the applicant was in her employ from July 1998 through December 1998. Ms. [REDACTED] indicated due to the lack of a worker's permit, she was forced to terminate employment.

The director concluded that the evidence submitted only established the applicant's presence at various time in the United States; the evidence did not establish continuous residence and continuous physical presence in the United States during the requisite periods. Accordingly, the director denied the application.

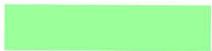
On appeal, counsel asserts that the documents previously submitted demonstrate the applicant's presence in the United States for the applicable time period

Contrary to counsel's assertion, the evidence provided with the TPS application does not establish continuous residence and continuous physical presence in the United States during the requisite periods. Specifically:

- [REDACTED] claims to have worked with the applicant at [REDACTED] and Mr. [REDACTED]'s claims the applicant was employed at [REDACTED]. However, the applicant provides no corroborating evidence to support either employment.
- [REDACTED] does not identify himself as either a payee of rent or a resident of the premises at [REDACTED] Richmond, Virginia and no supporting evidence has been submitted to corroborate the affiant's affidavit.
- The remaining affidavits provide few details about the applicant's life in the United States and whether he was continuously residing and continuously physically present in the country during the requisite years. Moreover, letters from acquaintances are not, by themselves, persuasive evidence of an applicant's residence or physical presence in the United States.
- The remaining documents in the record going back to 2001 are the [REDACTED] money transfers that do not identify an address in the United States for the applicant.
- The DMV printout dated April 13, 2006 and the documents under the name [REDACTED] [REDACTED] have no probative value as the applicant's name is not specifically listed.

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. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient evidence to satisfy the continuous residence (since December 30, 1998) and continuous physical presence (since January 5, 1999) requirements 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.