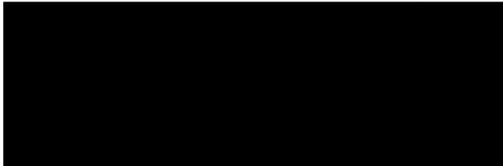




U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D. C. 20536



FILE: A94 335 245

Office: Nebraska Service Center

Date:

OCT 3 2000

IN RE: Applicant:



APPLICATION:

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

IN BEHALF OF APPLICANT:



Public Copy

INSTRUCTIONS:

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who indicated on his application that he was present in the United States without a lawful admission or parole in December 1997. The director denied the application for Temporary Protected Status (TPS) under § 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, because the applicant failed to establish he had entered the United States prior to December 30, 1998 and had been continuously physically present in the United States since January 5, 1999.

The initial application was supported by a letter from Lyle C. Hall in which [REDACTED] states that the applicant came to his house at [REDACTED] (sic) [REDACTED] in [REDACTED] Minnesota about July 15, 1998 and rented a room until about November when he moved to [REDACTED] in St. Paul.

On appeal, the applicant provides another letter from [REDACTED] in which he reaffirms his prior statements regarding the applicant's residences. The applicant also asserts in the appeal filed on June 1, 2000 that he will provide more evidence within 30 days. The applicant refers to a statement from [REDACTED] which is not contained in the record. No additional evidence has been included in the record; therefore, a decision will be entered based on the present record.

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 Honduras is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national of a state designated under § 244(b) of the Act;
- (b) Has been continuously physically present in the United States since January 5, 1999;
- (c) Has continuously resided in the United States since December 30, 1998;
- (d) Is admissible as an immigrant;
- (e) Is not ineligible under 8 C.F.R. 240.4; and
- (f) (1) Registers for TPS during the initial registration period, between January 5, 1999 and July 5, 1999 or (2) during any subsequent extension of such designation, in this case to August 20, 1999, if the applicant meets certain requirements.

The term continuously physically present, as used in 8 C.F.R. 244.1, means actual physical presence in the United States since January 5, 1999. Any departure, not authorized by the Service, including any brief, casual, and innocent departure, shall be deemed to break an alien's continuous physical presence.

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 the Service. 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 applicant's affidavits submitted on appeal are unsupported by probative evidence. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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 § 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.