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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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Washington, D.C. 20536

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FILE: [redacted] Office: Texas Service Center Date: **JAN 10 03**
SRC 02 167 54314

IN RE: Applicant: [redacted]

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

IN BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

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

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant is a native and 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. 1254a.

The director determined that the applicant failed to provide all of the requested information. He further determined that the applicant failed to provide evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant claims that he first filed his TPS application in March of 1999, but he never received a response from the Service regarding the status of his case. He further claims that he continuously called the Service to find out the status of his case, but he was told by a Service agent that he should resubmit his application. However, he was unemployed and he was not able to afford the application fees until June 2002, when he had enough money saved.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

(a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 Attorney General 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 TPS 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 condition described in paragraph (f)(2) of this section.

The term continuously resided as used in 8 C.F.R. 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998.

The term continuously physically present as used in 8 C.F.R. 244.1 means actual physical presence in the United States for the entire period specified in the regulations and since January 5, 1999.

The record reflects that the applicant filed his TPS application on May 7, 2002. He was requested on June 11, 2002, to submit evidence to establish that he has continuously resided in the United States since December 30, 1998, that he has been continuously physically present since January 5, 1999, and that he is eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. Because the applicant failed to submit all of the requested information, the director denied the application.

The director maintained that aliens applying under the provisions for late initial registration must prove that they are eligible because during the initial registration period of January 5, 1999 through August 20, 1999, they fall within the provisions described in paragraph (f)(2) above.

The applicant on appeal claims that he first filed his TPS application in March of 1999, but never received a response from the Service regarding the status of his case. He submits an illegible copy of a postal Express Mail receipt reflecting that the applicant sent something to the Texas Service Center on March 17,

1999. The Service record, however, does not contain any evidence that the applicant filed a TPS application in March 1999. Nor did the applicant submit evidence that this Express Mail was in fact his application for TPS as claimed. Consequently, the applicant has failed to establish that he met the qualification for late registration, and to overcome the findings of the director pursuant to 8 C.F.R. 244.2(f)(2).

Additionally, 8 C.F.R. 103.3(a)(2) states, in pertinent part, that the affected party shall file an appeal, with fee, including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

8 C.F.R. 103.3(a)(2)(v)(B)(1), states:

> An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The record reflects that the director denied the application on July 15, 2002. The applicant was advised that he may file an appeal, along with the required fee and any supporting brief, within 30 days of the service of the decision. On September 6, 2002, approximately 53 days after the director's decision, the appeal was filed with the Service.

Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.