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U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

PUBLIC COPY



DEC 03 2003
Date:

FILE: LIN 02 214 51379 Office: Nebraska Service Center



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

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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.

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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 submit any evidence to establish that she was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999, that she entered the United States prior to December 30, 1998, and that she had changed her name. The director, therefore, denied the application.

On appeal, the applicant states that she has complied with all requirements regarding her residence in the United States since November 17, 1998. She further states that she submitted an affidavit that she and [REDACTED] are one and the same person. The applicant argues that she did not use a different name, only the short version of her name [REDACTED] instead of [REDACTED]

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 § 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. 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.

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. 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 record reflects that the applicant filed her TPS application on June 12, 2002. The applicant was requested on September 23, 2002 to submit: (1) evidence to show entry and continuous residence in the United States since December 30, 1998; (2) evidence to show that she has been continuously physically present since January 5, 1999; (3) evidence to establish that she was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999; and (4) evidence establishing that she and Linda Navarro are one and the same person. Because the applicant's response did not contain all of the requested information, the director denied the application.

The record of proceeding contains the applicant's sworn statement asserting that when she began working, she used the name Linda Navarro, which is a short name for Eslinda Navarro, and that she and Linda Navarro are one and the same person. The director, in his decision, maintained that the applicant had failed to submit documentary evidence of a name change. The applicant, on appeal, however, appears to have adequately addressed the question of her use of the name, Linda Navarro.

The applicant, however, has not submitted any evidence to establish that she has met any of the criteria for late initial registration described in 8 C.F.R. § 244.2(f)(2) (listed above).

Aliens applying under the provisions for late initial registration must provide evidence to prove that they are eligible because during the initial registration period of January 5, 1999 through August 20, 1999, they fell within the provisions described in 8 C.F.R. § 244.2(f)(2). The applicant has failed to overcome this finding of the director.

The burden of proof is upon the applicant to establish that 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. The appeal will be dismissed.

ORDER: The appeal is dismissed.