U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

M-1

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 0 4 2004

IN RE: Applicant: [redacted]

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:

This is the decision of the Administrative Appeals Office 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.

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

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DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) 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. § 1254.

The director denied the application for TPS because the applicant failed to respond to a request for additional evidence. Based upon the evidence of record, the director determined that the applicant failed to establish that she was eligible for late registration. The director also found that the applicant had failed to establish her date of entry and her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director found that the applicant had not established that she and Elena Lopez Zunun, in whose name evidence was also presented, is one and the same person.

On appeal, the applicant states that she did not apply "when the registration was open" because she was using another name, was afraid, and she did not have enough proof under her real name. She also states that she has a daughter born in the United States to support, and needs authorization to work. The applicant checked the box on the Notice of Appeal indicating that a brief and/or additional evidence would be submitted within 30 days. To date, no additional evidence has been received into the record. The record will be considered complete, and a decision rendered on the evidence of record.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant did file an initial application for TPS during the initial registration period. The applicant filed that initial application on February 22, 1999. That application was denied on January 4, 2000, due to abandonment for the applicant's failure to respond to the director's request for additional evidence to establish her eligibility for TPS. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on June 15, 2000, indicating that it was an application for annual registration/re-registration. The director denied this second application also due to abandonment for the applicant's failure to respond to the director's request for additional evidence to establish her eligibility for TPS. Once again, since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant again did not file a motion to reopen during the requisite timeframe.

For the third time, the applicant filed a subsequent Form I-821 on July 1, 2002, again indicating that it was an application for annual registration/re-registration. The director also denied this third application due to abandonment for the applicant's failure to respond to the director's request for additional evidence to establish her eligibility for TPS. As before, there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant again did not file a motion to reopen during the requisite timeframe.

The applicant filed the instant application on May 7, 2003, indicating that it was an initial application to register for Temporary Protected Status. The director denied the instant application on September 18, 2003, noting that the applicant had failed to respond to the request for additional evidence, and determining that the evidence of record did not establish the applicant's eligibility for TPS for the reasons enumerated above. In his decision, the director also noted the previous denials of earlier applications, and stated that since the instant application was received after the initial registration period, this case is considered as an application for late initial registration, and that the applicant needed to meet one of the conditions of 8 C.F.R. § 244.2(f)(2) and (g).

The applicant's initial Form I-821 was properly filed on February 22, 1999. That initial application was denied by the director on January 4, 2000. Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision rendered, must be considered as either a request for annual registration or as a new filing for TPS benefits.

If the applicant is filing a re-registration application, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The applicant's instant Form I-821 was filed on May 7, 2003. Since the initial application was denied on January 4, 2000, this subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as an application under the provisions for late registration.

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 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 conditions described in paragraph (f)(2) of this section.

The phrase 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 phrase 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

(1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite time period.

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 Citizenship and Immigration Services (CIS), on May 7, 2003.

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from 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 record of proceedings confirms that the applicant filed this application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On July 30, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her date of entry and her qualifying continuous residence and continuous physical presence in the United States. The applicant was also requested to submit evidence establishing that she had used the identity of Elena Lopez Zunun, in whose name evidence was also presented. The applicant failed to respond.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on September 18, 2003. On appeal, the applicant states that she did not apply "when the registration was open" because she was using another name and did not have enough proof under her real name.

With her various applications, the applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. Because the applicant's initial application submitted during the initial registration period was denied by the director on January 4, 2000, her subsequent Form I-821 application, submitted after a decision had been rendered, is considered as an application for late registration for TPS benefits. The record reflects that the applicant has not submitted any evidence to establish that she 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 her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on July 30, 2003, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant failed to respond.

The director concluded that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant did not submit additional evidence.

In reviewing the evidence submitted with the applicant's four applications for TPS spanning the years February 1999 through May 2003, the following documentation has been submitted:

In the nam

1. Urgente Express receipts dated: [illegible] 28, 1997; [illegible] 2, 1998; March 8, 1998; May 1, 1998; May 31, 1998; August 28, 1998; August 29, 1998; February 2, 1999; April 27, 2002, [It is noted that one of these receipts reflects the applicant's address as " rather than as had been indicated on the applicant's applications];
2. Two undated MoneyGram receipts, and one dated 8/22/99;
3. One Western Union receipt dated March 20, 2002, and one undated receipt;
4. An original birth certificate with English translation;
5. A photo identification card dated 1/2/91, entitled of unspecified location and purpose;
6. A Qwest account bill dated October 19, 2001;
7. A change of address letter from the applicant to the Service, now CIS, dated June 12, 2001;
8. A pay stub from an unidentified company dated June 22, 2001, reflecting year-to-date earnings of $960.50, [It is noted that this pay stub provides a different social security number than the pay stubs listed below under the other name applicant states that she uses];
9. A Kaiser Permanente Pharmacy receipt dated September 26, 2001;
10. A State of Colorado Certificate of Birth naming the applicant as the mother of a child born on June 4, 2002;
11. A photocopy of the biographic pages of a Republic of Honduras passport, issued by the Consulate General at Phoenix, Arizona, on October 10, 2002;
12. A letter dated May 5, 2003, from the applicant to CIS, stating that she never received notices asking for more information because she lives in a duplex and mail is often mixed up, and requesting work authorization to enable her to support her daughter; and,
13. Various notices and letters from CIS acknowledging receipt of applications and fingerprint fees, dated between 1999 and 2003.

In the nam

1. Pay stubs from Justus of Steamboat, Inc., of an unidentified locale, dated 6/15/99, 10/31/99, 11/30/99, and two illegible dates, reflecting a different social security number than the pay stubs under the applicant's true name;
2. A letter dated March 24, 1999, from the Personnel Manager, WeiderCare, Denver, Colorado, stating that began employment as a "Sewer" on October 26, 1998;
3. A New Century Energies bill dated June 30, 2000, [It is noted that this bill provides the service address as " " and reflects a previous balance, while the applicant had filed a Form I-821 on June 15, 2000, indicating her address as ; and,
4. A Greyhound Lines, Inc. receipt from Phoenix, Arizona, to Denver, Colorado, dated November 22-23, 1997.

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, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies regarding her social security number and addresses as provided in the above evidence. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The applicant's filings for TPS, issuance of a passport, and child's birth certificate indicate the applicant was present in the United States at various times. However, the evidence does not reflect a clear pattern of continuous residence and continuous physical presence. The evidence does not demonstrate the applicant's residence and means of support, and is inconsistent with evidence submitted under another name as to the applicant's address and social security number. The applicant indicates that she did not receive notices because she lived in a duplex and mail often was mixed. It is noted, however, that each application submitted gave a different address for the applicant and the applicant failed to respond when additional evidence was requested and mailed to each of the addresses she provided. The evidence does not establish that the applicant has continuously resided and has been continuously physically present in the United States during the requisite periods. She has, therefore, not established that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the petition must also be denied for these reasons.

It is noted that the director also determined that the applicant had not established that she and [redacted] are one and the same person. The applicant's February 1999 application for TPS indicated the applicant had not used any other names. The applicant's subsequent TPS applications, meanwhile, indicated that she has used the name [redacted] The applicant has not, however, established that the evidence pertaining t[redacted] relates to her. As noted above, the evidence provided places [redacted] at a different address than the applicant, and provides a different social security number for her. The applicant has not provided an explanation for these discrepancies, and the applicant also has not overcome this finding of the director.

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

ORDER: The appeal is dismissed.