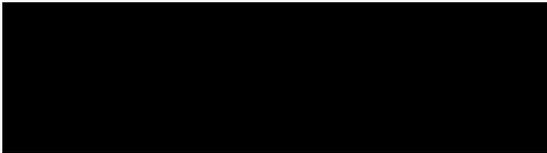




U.S. Citizenship  
and Immigration  
Services

MM



FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date:

AUG 11 2004

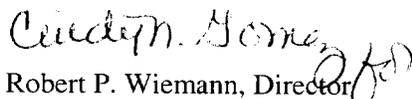
IN RE: Applicant: [REDACTED]

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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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**DISCUSSION:** The application was denied by the Director, Texas 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 applying for 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 she was eligible for late registration.

On appeal, the applicant stated that she did not apply during the initial registration period because she did not “have enough money to cover all the expenses to file.”

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.

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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 5, 2000.

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).

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).

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 entrance into the United States and her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to her residence and physical presence in the United States. In support of her eligibility to apply for late registration, the applicant also provided a photocopy of a Form I-862, Notice to Appear, indicating that she entered the United States without inspection on or about December 20, 1998, and indicating that she was placed in deportation proceedings with a hearing scheduled before an Immigration Judge at Harlingen, Texas, on May 11, 1999.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on September 23, 2003.

On appeal, the applicant stated that she did not have money to file the application during the initial registration period.

It is noted that the record contains documentation of the procedural history of the applicant's hearing in removal proceedings. The record includes the Order of the Immigration Judge dated May 11, 1999, indicating that the judge ordered that the case be administratively closed and be considered no longer pending before the Immigration Judge to allow the applicant to apply for TPS.

The applicant's pending case before an Immigration Judge raises the issue of the applicant's eligibility for late registration under the provisions of 8 C.F.R. § 244.2(f)(2)(ii). However, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). In this case, since the applicant's pending case before the Immigration Judge was administratively closed on May 11, 1999, her 60-day period for

late registration actually expired on July 11, 1999. The applicant, however, did not file her application with the director until July 5, 2000.

The applicant has not submitted evidence to establish that she has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2) and (g). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that the Federal Bureau of Investigations (FBI) report, contained in the record of proceedings, shows that the applicant also was arrested in Houston, Texas, on July 14, 1999, and charged with Theft/Shoplifting. However, the arrest report and the final court disposition of the above arrest are not included in the record of proceeding. The applicant, under penalty of perjury, failed to acknowledge this arrest, or the apprehension by the U.S. Border Patrol, on the Form I-821 application.

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.