



U.S. Citizenship
and Immigration
Services

MM



FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 23 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 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 because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish her continuous residence and her continuous physical presence in the United States during the requisite periods.

On appeal, the applicant provides a brief statement.

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 first issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

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 in the United States since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. 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.

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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reflects that the applicant filed her initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on June 9, 2003.

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 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 his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The record of proceeding confirms that the applicant filed her application for TPS on June 9, 2003, 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 16, 2003, in a notice of intent to deny, 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 into the United States, and evidence of continuous residence and continuous physical presence in the United States during the required timeframes. The applicant, in response,

provided two payroll stubs dated December 30, 1998 and January 10, 1999. The applicant also submitted a letter, dated August 1, 2003, in which she states:

I am here in the United States since February 10, 1998.

Even thou [sic] I was not married to my present husband when we were living in Honduras we were living together without the benefit of marriage. In Honduras has been a very common thing to live as companions, but that status does not change the responsibilities to the society and to family (children) when they come. I consider myself a married woman to Carlos Orrellana before March 11, 2003.

The director determined that the evidence submitted failed to establish the applicant's eligibility for late registration. The director also determined that the applicant's payroll stub for December 30, 1998, was sufficient to meet the requirements of date of entry, but that the second payroll stub was not sufficient to establish continuous physical presence and continuous residence during the requisite timeframes. The director denied the application on August 22, 2003.

On appeal, the applicant states that she got married in March of 2003, but that she and her husband lived together in Honduras since she was 16 years old. She further stated that her husband had come to the United States "first and received his TPS."

The applicant provided no additional evidence on appeal that would establish her eligibility for late registration. The applicant's marriage did not take place until after the initial registration period for TPS applicants from Honduras. Consequently, the applicant was not the spouse of an alien currently eligible to be a TPS registrant. Therefore, the applicant does not qualify for late registration as described in 8 C.F.R. § 244.2(f)(2). The applicant has not overcome this part of the director's decision, and the application must be denied for this reason.

The second issue raised by the director to be addressed 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. The applicant must also have been in the United States during the requisite timeframe and otherwise satisfy the requirements under 8 C.F.R. § 244.2, as stated above.

The record contains statements from Citywide Building Maintenance indicating that the applicant received earnings from them for the periods covering July 22, 2001 through July 29, 2001, July 7, 2002 through July 14, 2002, and May 11, 2003 through May 18, 2003.

The director determined that the aforementioned earning statements were insufficient in establishing that the applicant was continuously residing in the United States since December 30, 1998, and that she was continuously physically present in the United States since January 5, 1999.

On appeal, the applicant states that she does not know why her evidence for 1998 was accepted, but not her evidence for 1999, as they are from the same factory and the same payroll. As additional evidence, the applicant resubmitted copies of two of the previously submitted earning statements from Citywide Building Maintenance,

and provided a new earning statement from them for the period covering October 14, 2001 through October 21, 2001.

None of the submitted documentation is sufficient in establishing that the applicant has continuously resided in the United States and has been continuously physically present in the United States during the required timeframes. The applicant has failed to establish that she has met the criteria described in 8 C.R.R. § 244.2(b) and (c). For this additional reason, the application may not be approved.

An alien applying for TPS 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.