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U.S. Citizenship  
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**DEC 14 2004**

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FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER Date:

[SRC 03 195 53726]

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

**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 submits a statement and additional evidence in support of the appeal. The applicant also resubmits documentation that had previously been entered into the record.

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. 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 July 5, 2006, 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 her initial TPS application with Citizenship and Immigration Services (CIS), on July 1, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. *See* 8 C.F.R. § 244.2(g).

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 September 22, 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 qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the applicant was requested to submit copies of her: birth certificate with English translation; driver's license; and photo identification or a national identity document bearing a photograph and/or fingerprint. The applicant, in response, provided a copy of her birth certificate with English translation, and documentation relating to her residence and physical presence in the United States. The applicant also states that she applied for TPS in June 1999, during the initial registration period, through an immigration consulting agency in Little Havana, Miami, Florida. She states that she paid the agency about \$600, and that the agency went out of business so she is unable to retrieve copies of her documentation. It is noted that the applicant's initial TPS application included a copy of her Honduran national identity document issued on May 21, 1997.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on October 28, 2003.

On appeal, the applicant states that she first applied for TPS in May 1999, and reiterates her statement that the agency went out of business and that she cannot obtain copies. The applicant states that she has been living in the United States since prior to 1998, and that she is a "hardworking, tax-paying, and law-abiding person." In support of the appeal, the applicant submits a copy of her State of Florida identification card issued on August 28, 2003, and additional rent receipts, one per year for 1999 through 2003. The applicant also resubmits copies of her birth certificate and Honduran identification card.

The applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her application for Temporary Protected Status within the initial registration period. It is noted that on the applicant's Form I-821, Application for Temporary Protected Status, the applicant has certified under penalty of perjury that she has not been under immigration proceedings; the "Yes" box indicating that the applicant has been under immigration proceedings contains correction fluid and the box stating "No" has been filled in. The record however, includes documentation relating to the applicant's apprehension by the United States Border Patrol while attempting entry into the United States at or near ██████████ Texas, on May 27, 2001. The record reflects that the applicant was subsequently placed in removal proceedings. The Order of the Immigration Judge, Harlingen, Texas, dated December 3, 2001, orders the applicant removed to Honduras, and states that the applicant's failure to appear for her hearing constitutes abandonment of any pending applications and any applications the applicant may have been eligible to file. The record contains no evidence of an appeal to this decision. Although the applicant claimed to have filed an earlier TPS application in May or June of 1999, the record contains no evidence to support her assertion. Further, the records of CIS do not reflect an earlier application under the applicant's name and date of birth. 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) and (g). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient credible evidence to establish her qualifying continuous residence and continuous physical presence during the requisite time periods. The evidence submitted by the applicant on appeal is inconsistent with evidence submitted earlier. The record contains "original" rent receipts submitted in response to the Notice of Intent to Deny and on appeal. There are two rent receipts, both stated to have been paid by the applicant for rent of an apartment in October 2001; the receipt submitted on appeal, however, bears a different serial number and signature, although it is purported to have been for the same month, as the receipt submitted in response to the Notice of Intent to Deny. 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). Moreover, the record includes evidence indicating that the applicant did not enter the United States until May 27, 2001. Therefore, the applicant has failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

It is noted that the record includes a Warrant of Removal issued on January 18, 2002, by the District Director, Harlingen, Texas, following a final order of removal by the Immigration Judge. The applicant was scheduled for departure to Honduras on February 18, 2002.

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.