

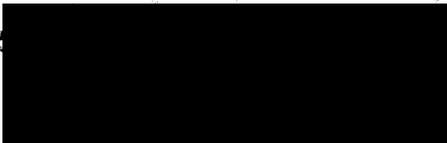
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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

JUL 01 2004
Date:

IN RE:

Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 have 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.

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

DISCUSSION: The application was denied by the Director [REDACTED] 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 entry into the United States prior to December 30, 1998, and her continuous residence and continuous physical presence in the United States during the required timeframes. Further, the director determined that the applicant had not established her identity, as she had not presented an identification card with a clear photograph of herself.

On appeal, the applicant provides a brief statement. The applicant also provides a photocopy of an identification card with a clear photograph.

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 is eligible for temporary protected status only if such alien establishes that he or she:

- (a) is a national of a 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 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, or
 - (2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:
 - (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.

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 [REDACTED] and that they have been continuously physically present since [REDACTED] 1999. The initial registration period for Hondurans was from [REDACTED] through [REDACTED]. The record reveals that the applicant filed her application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS) [REDACTED].

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/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 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 or her own statements. 8 C.F.R. § 244.9(b).

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. In an intent to deny, dated [REDACTED] 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 prior to [REDACTED] and her qualifying residence and physical presence in the United States during the qualifying timeframes. The applicant, in response, provided a transportation form dated [REDACTED]. The applicant also provided a letter that stated, in pertinent part:

What I have sent to you in my last application. I do not have more evidences.

I am working as a housekeeper for several persons. I clean their houses and they pay me cash.

Besides I am a companion of a person who is in the same position that me. He is waiting for his TPS card. For these reasons I do not have more documents to send.

The applicant did not submit any evidence to establish eligibility for late registration.

The director determined that the applicant had failed to establish she was eligible for late registration, and denied the application on [REDACTED].

On appeal, the applicant did not address the issue of late registration.

The applicant provided no documentation on appeal to demonstrate that she is eligible for late registration. Consequently, the applicant has not established that she has met any of the criteria for late registration 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 and third 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 [REDACTED] and her continuous physical presence in the United States since [REDACTED]. 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.

In the above-mentioned intent to deny, the applicant was also requested to submit evidence establishing her qualifying continuous residence and physical presence in the United States during the requisite periods. The applicant, in response, states that she does not "have more evidences [sic]."

The director determined that the applicant had provided insufficient evidence to establish that she was continuously residing in the United States since [REDACTED] and that she was continuously physically present in the United States since [REDACTED].

On appeal, the applicant states:

When I took your letter to the person who helped me to file the TPS application and show that he put on the application a wrong date of entry he apologized to me and said that was her mistake. Also says that he can write a letter to you recognition [sic] the mistake because I came at the end of 60087 [sic] and not at the end of 600.00 [sic]. On the year 60087 [sic] was the year that I started working in factories and companied where I am keeping written records as pay stubs, letters and receipts. Before I was an in-baby [sic] sitter and the only day free were Sundays. For this reason I told you I do not have more evidences [sic] to show. Since I came to the United States I never traveled outside of this country. I am sending a clear copy of my Honduras I.D. Thank you very much.

On appeal, the applicant has provided no additional credible evidence to establish that she has continuously resided in the United States, and that she 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.

The final issue raised by the director is that the applicant failed to provide a recognizable identity document.

On appeal, the applicant provides a photocopy of an identification card bearing a clear photo. Therefore, this portion of the director's decision has been overcome.

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.