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U.S. Citizenship
and Immigration
Services

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JUL 01 2004

FILE: 

Office NEBRASKA SERVICE CENTER

Date:

IN RE: Applicant: 

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
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 qualifying continuous residence and physical presence in the United States during the requisite periods.

On appeal, the applicant provides a brief statement and additional evidence.

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 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 application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 7, 2003.

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. On July 31, 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 residence and physical presence in the United States. The applicant, in response, provided several receipts in an attempt to establish her continuous physical presence in the United States since January 5, 1999, and continuous residence in the United States since December 30, 1998. 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. The director also determined that the applicant provided insufficient evidence to establish continuous physical presence and continuous residence in the United States during the required timeframes. The director denied the application on August 25, 2003.

On appeal, the applicant states the following:

I came to this country since January 1997 through [sic] the city border, [sic] of Brownsville, Texas. I stayed in Houston for about two years and then I came to Illinois. Even though [sic] I worked in Texas with a lady that gave me Room & Board she just gave me few dollars to buy personal things, never a regular salary. When I came from Honduras I was ill. I am suffering since my young years of a Thyroid disease to the point that I can become blind if the right treatment is not applied. My reason for not applying [sic] in 1999 (first period for the Honduras TPS) were two: 1) [sic] I was so ill that I was confined to bed and 2) I do not have the financial resources to do it. I beg some friends and relatives in [redacted] [sic] but they also were struggling financially to apply [sic] themselves. I worked one day and the next day I did not because the energy spent one day was out the next. I am better now because the Lake County Health Department is helping me with the medicine and a consultation for \$10.00 each month. I can get some affidavits from people in Houston and Illinois that can testify regarding what I am saying. If you can help me issuing the TPS permit I can get a steady job and live as a human being must live. I appreciate your understanding and help.

The applicant provided no additional documentation on appeal to demonstrate that she is eligible for late registration. There is no additional humanitarian provision under the TPS program. 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 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 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 applicant was requested on July 31, 2003, to submit evidence establishing her qualifying continuous residence and physical presence in the United States during the requisite periods. The applicant, in response, provided: one rent receipt for January 1 to February 1, 1998; one rent receipt for March 1 to April 1, 1999; receipts for the transference of money on June 30, 2000, July 14, 2000, March 14, 2001, May 23, 2001, February 23, 2002, March 10, 2002, and July 30, 2003; a letter dated June 4, 2003, from [REDACTED], stating that the beneficiary has been a customer of theirs since February of 1998; a receipt from Lake County Health Department dated March 4, 2002; an earning statement from [REDACTED] dated September 29, 2002; an earning statement from Industrial Staffing Services, dated June 20, 2000; and, a prescription from [REDACTED].

The applicant also provided a copy of a [REDACTED] dated [REDACTED]. It is obvious that the date on the [REDACTED] has been altered, and it appears that the applicant's name was written over information that had been erased. 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, 591-92 (BIA 1988) 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. *Id.*, 582, 591.

The director determined that the applicant had provided insufficient evidence to establish that she 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, and also denied the application for these reasons.

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