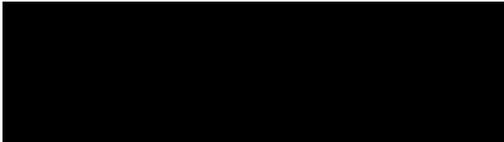


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U.S. Citizenship
and Immigration
Services



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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.

Cindy M. Homen
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 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 provides a 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.

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 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 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).

In a notice of intent to deny, dated 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 that she had continuously resided in the United States since December 30, 1998, and had been physically present in the United States since January 5, 1999, to the date of the filing of the application. The applicant also was requested to submit photo identification.

The director determined that the applicant had submitted sufficient evidence to establish entry prior to December 30, 1998, continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999. However, the director determined that the applicant had failed to establish her eligibility for late registration and denied the application on September 30, 2003.

On appeal, the applicant states:

We do not know what happened to our applications (my husband and I) when we submitted the first application for the Honduran TPS on August 1999. When you say in your letter that you do not have record of my application I went to the Post Office and they discovered that the money order never was cashed and they returned the money to me. My sincere and good intention since I have all the proofs of my date of entry, residence and work history, was to have the benefit of the TPS permit. In one sense I am thankful to you that you recognized that I am living continuously in the United States long before 1998. Since was [sic] a silence about my first application we were ignorant in not investigate [sic] the reason of your silence and I did not

applied [sic] again in waiting for your response. My only petition to you is that you consider the date of entry, our residence here before 1998 and my intention to be the beneficiary of the provision for people like me that were in need of your help. Thank you very much for your understanding and help.

The applicant did not further address the issue of late registration. 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). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the AAO finds that the director erred in stating that the applicant had provided sufficient evidence to establish continuous physical presence and continuous residence in the United States during the required timeframes, as most of the documentation submitted is for the years 1995, 1997 and 2003. The record contains a photocopy of the biographical page of the applicant's passport, which indicates that it was issued in [REDACTED] on April 12, 1999; a letter, dated August 11, 2003, from the pastor of the [REDACTED] that the applicant "has been a member of the [REDACTED] located at [REDACTED] to present, and a money order receipt for August 11, 1999. These documents are not sufficient to demonstrate that the applicant has continuously resided in the United States since December 30, 1998, and been continuously physically present in the United States since January 5, 1999. Therefore, the application must also be denied for these reasons.

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.