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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship and Immigration Services



FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: JUL 30 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.

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 (AAO) on appeal. The appeal will be dismissed.

The applicant is a thirteen-year-old child. He 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 Form I-821, Application for Temporary Protected Status, was filed on the applicant's behalf by his mother, Alba Dinores Vance, aka Alba Rosales Vance, neé Alba Dinora Rosales Zelaya (alien registration number A73 107 391).

The director denied the application because the applicant failed to establish he was eligible for late registration. The director also denied the application because the applicant failed to submit a photo-identification document.

On appeal, the applicant's mother submits a brief statement and additional documentation.

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's initial application for TPS was filed with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 5, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or 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 he or 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).

On October 29, 2002, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit a photo identification document or national identity card (with photo) from his country of origin. The applicant, in response, provided documentation relating to his residence and physical presence in the United States. He did not provide a photo identification document, or evidence of his eligibility for late registration. The director, therefore, denied the application on December 12, 2002.

On appeal, the applicant's mother states that she and her son are the beneficiaries of approved Forms I-130, Immigrant Petitions for Relative, Fiance(é), or Orphan, filed on their behalves by the mother's United States citizen spouse, [REDACTED]. She also states that she filed an application for adjustment of status to permanent residence for herself, and including her son, based on the approved Form I-130 petitions. She indicates that the application for adjustment of status to permanent residence was denied in 2002, because her husband failed to attend a scheduled interview with her in connection with that application. The mother further indicates that she did not file an application for TPS after the denial of the application for adjustment of status, but that she "will be applying also, as soon as [she fixes] this problem for [her] son."

In support of the appeal, the applicant's mother submits documentation including photocopies of:

1. Her Honduran birth certificate;
2. Her marriage certificate to [REDACTED] dated August 19, 1994;
3. Her Employment Authorization Document (EAD), issued by CIS on March 19, 1999;
4. The applicant's Honduran birth certificate;
5. An immunization record for the applicant that contains an appointment date, "wk of 9/13/98," wherein the "98" appears to have been altered;
6. A Form I-797, Notice of Action, indicating that a Form I-130, Immigrant Petition for Relative, Fiance(é), or Orphan, was filed on her behalf by [REDACTED] on April 4, 1995, and was approved on July 21, 1995;
7. A Form I-797 indicating that a Form I-130 was filed on the applicant's behalf by [REDACTED] on April 21, 1998, and was approved on February 17, 1999; and,
8. A notice of interview indicating that she had an appointment scheduled in connection with an application for adjustment of status on September 26, 2001;

It appears that the applicant's mother is implying that the applicant is eligible for late registration under 8 C.F.R. § 244.2(f)(2)(ii) based on the approval of the Form I-130 filed on his behalf. The mother's implication is not persuasive.

To qualify for late registration, the applicant must provide evidence that he was eligible for late registration during the initial registration period. The fact that an individual has a Form I-130 immigrant visa petition approved on his or her behalf does not, in itself, qualify that individual for late registration under 8 C.F.R. § 244.2(f)(2). There is no indication that the applicant had an application for change of status or adjustment of status pending during the initial registration period.

In addition, while the applicant's mother's pending application for adjustment of status may have rendered her eligible for late registration, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). In this case, there is no evidence that the mother's application for adjustment of status was pending during the initial registration period, that she filed an application for TPS within the 60-day period following the denial of her application for adjustment of status to permanent residence, or that the application was either approved or is still pending. Therefore, the applicant cannot be considered as the child of an alien currently eligible to be a TPS applicant.

The applicant has not established his eligibility for late registration. 8 C.F.R. § 244(2)(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.