



U.S. Citizenship  
and Immigration  
Services

M

[REDACTED]

FILE: [REDACTED] Office: NEBRASKA 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

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*identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy*

**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 had: 1) continuously resided in the United States since December 30, 1998; and, 2) been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant submits a statement.

Although the record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, neither the individual nor the group named is recognized to represent individuals in matters before the Department of Homeland Security (DHS) pursuant to 8 C.F.R. § 292.1. Therefore, the applicant shall be considered to be self-represented, and the decision shall be provided only to the applicant.

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.

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 in the United States since January 5, 1999. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite time period.

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 Citizenship and Immigration Services (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).

The applicant submitted the following evidence with the initial application in an attempt to establish continuous residence and physical presence in the United States during the requisite periods:

1. her student identification card for the 2002-2003 school year from Worthington High School in Worthington, Minnesota;
2. a notarized letter from her mother, [REDACTED] stating that she holds TPS status and that her daughter has been in the United States since November 1998;
3. a letter dated January 13, 2003, from [REDACTED] at Worthington High School in Worthington, Minnesota, stating that the applicant is enrolled at Worthington High School and has attended classes full-time since September 3, 2002.

On July 3, 2003, the applicant was requested to submit evidence establishing her entry into the United States prior to December 30, 1998, her continuous residence in the United States since December 30, 1998, and her physical presence in the United States since January 15, 1999. The applicant was also requested to submit evidence to establish that she was eligible for late initial registration. The applicant, in response, provided the following documentation in an attempt her qualifying residence and physical presence:

1. an undated letter from the applicant's mother reiterating her statement that the applicant has lived in the United States since November 1998; and,
2. a letter dated April 14, 2003, from [REDACTED] Counselor at Worthington High School stating that the applicant is enrolled at that school and has been attending classes full-time since September 2002;

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on August 12, 2003.

On appeal, the applicant reiterates her statement that she entered the United States in November 1998 and has resided continuously in the United States since that date. She further states that she is unable to provide school records to corroborate her claim because she moved to another state with her mother during the requisite period. The applicant submits the following, relevant documentation:

1. an undated letter from the applicant's mother, [REDACTED], stating that the applicant has been in the United States since November 1998;
2. the applicant's immunization record showing that she has received immunizations in the United States on April 9, May 16, and September 12, 2001.

The letters provided by the applicant's mother are not sufficient to establish her continuous residence and physical presence in the United States during the requisite periods. Aside from her mother's letters, the applicant has not submitted any evidence to establish her entry into the United States prior to December 30, 1998. Additionally, she has not submitted any contemporaneous evidence to establish her qualifying continuous residence and physical presence in the United States during the period from December 30, 1998 to April 9, 2001. Furthermore, the applicant has not submitted any evidence to establish her qualifying residence and physical presence during the period from September 12, 2001 to September 2002. She has, therefore, failed to establish

that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). 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.