

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Notice of Personal Privacy

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



U.S. Citizenship  
and Immigration  
Services

*ME*

[Redacted]

FILE:

[Redacted]

Office: NEBRASKA SERVICE CENTER

Date: JUN 16 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 for*

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

The applicant is a native and 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 that 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 submitted a 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 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.

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 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 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 June 11, 2003.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. 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 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).

On July 9, 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 continuous residence and physical presence in the United States. The applicant, in response, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on August 22, 2003. On appeal, the applicant submitted evidence in an attempt to establish her qualifying continuous residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. 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 conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed, and the application must be denied.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on July 9, 2003, to submit evidence establishing her qualifying continuous residence and physical presence in the United States. In response, the applicant submitted the following documentation:

1. her pay statements from Addus Healthcare, Inc., for the pay periods ending January 15, 2003, February 28, 2003, December 31, 2000, and November 30, 2000;
2. her pay statements from Industrial Staffing Services for the pay periods ending November 19, 2000 and November 26, 2000;
3. her pay statements from an unidentified company for the pay periods ending July 16, 2000 and July 23, 2000;

4. a letter dated August 5, 2003, from [REDACTED] President of [REDACTED] in Waukegan, Illinois, stating that the applicant worked for her company as a housekeeper from August 7, 1998 to June 31, 2000, at a salary of \$300 per week;
5. a letter dated June 13, 2001, from [REDACTED] priest of Holy Family Parish in Waukegan, Illinois, stating that the beneficiary, whose photograph was affixed to the letter, has attended his church since January 1999; and,
6. a generic "[REDACTED] Notice" issued to the applicant and another individual to inform them that rent in the amount of \$150 was due for an apartment located at 810 McAlister in Waukegan, Illinois, for the period from August 10, 1998 through September 10, 1998.

The director concluded that the applicant had failed to establish her qualifying continuous residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant reiterated her claim to have resided in the United States since August 1, 1998, and submitted the following evidence:

1. pay statements from Addus Healthcare, Inc. for the period from November 2000 through February 2003;
2. pay statements from Complete Temporary Labor, Inc. for the period ending May 18, 2003; October 29, 2000, October 22, 2000, October 8, 2000, August 27, 2000, and August 20, 2000;
3. pay statements from Industrial Staffing Services for the pay period ending May 25, 2003, November 26, 2000, November 19, 2000, November 26, 2000, and November 19, 2000;
4. pay statements from MVP in Waukegan, Illinois, for the pay periods ending December 16, 2001, November 12, 2000, October 22, 2000, October 15, 2000, and October 8, 2000; and,
5. pay statements from an unidentified company for the pay periods ending October 8, 2000, October 1, 2000, September 24, 2000, September 17, 2000, September 10, 2000, September 3, 2000, August 6, 2000, and July 30, 2000.

It is concluded the applicant has submitted sufficient evidence to establish continuous residence and physical presence in the United States only since July 2000. The applicant has submitted only two letters and a "landlord's ten days' notice" to establish continuous residence in the United States from December 30, 1998 to July 2000 and continuous physical presence in the United States from January 5, 1999 to July 2000. The employment letter from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically [REDACTED] does not provide the address where the applicant resided during the period of her employment. The letter from [REDACTED] also has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he

attests, nor does he provide the addresses where the applicant resided during the entire period of her involvement with the church.

The generic rent notice is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2) provides a list of documents that “may” be accepted in support of the applicant’s claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant’s qualifying residence or physical presence in the United States prior to July 2000. The applicant claims to have lived in the United States since August 1, 1998. It is reasonable to expect that she would have some other type of contemporaneous evidence to support the “Landlord’s Ten Days’ Notice”; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence and physical presence requirements 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, and 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.