



U.S. Citizenship
and Immigration
Services

111-1



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUN 23 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

Identifying only what is
prevent clearly unwarranted
invasion of personal privacy

PHILIP J. COFFY

DISCUSSION: The application was denied by the Director, California 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 seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to submit evidence to establish that she was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant states that it was her intent to file the application for TPS before the expiration of the initial registration period. The applicant submits additional evidence in support of her claim.

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 as 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. 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 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 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 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 proceeding reflects that the applicant filed her initial TPS application on June 26, 2002, after the initial registration period for Hondurans had closed. On November 5, 2002, the applicant was requested to submit evidence to establish that she was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. While the applicant, in response, submitted evidence of her residence in the United States, she failed to submit evidence to establish her eligibility for late registration. On February 4, 2003, the applicant was again requested to submit evidence to establish her eligibility for late registration. In

response, the applicant submitted documentation pertaining to a complaint she filed against Latino Express Services with the County of Los Angeles, Department of Consumer Affairs. The director concluded the applicant had not submitted evidence to establish her eligibility for late registration. On April 8, 2003, the director, therefore, denied the application.

On appeal, the applicant states that on March 9, 1999, she paid Latino Express Service to prepare, file, and mail her application for TPS before the initial registration deadline of August 20, 1999. The applicant states that it was her intent as well as her reasonable belief that Latino Express Service would properly and timely prepare her application, but that Latino Express Service failed to properly assemble and prepare her application. The applicant claims that her TPS application was initially mailed to the Immigration and Naturalization Service (INS) on August 18, 1999. She states that the TPS application was returned to her on three occasions because it had been improperly filed, and she is not certain of the actual filing date. The applicant submits the following evidence in an effort to establish her eligibility for late registration:

- 1) a March 9, 1999 receipt for \$225, [REDACTED] marked "for I-821, Honduras," issued by Latino Express Services;
- 2) a copy of a money order receipt in the amount of \$175.00, issued by Travelers Express to an unknown payee, on February 6, 1999;
- 3) a copy of English and Spanish versions of a card, showing the name and address for Latino Express Services, indicating they provide services for "Income Tax" and "TPS. (Permiso Temporal);"
- 4) a copy of a U.S. Postal Service money order [REDACTED] in the amount of \$175.00, payable to the U.S. Immigration and Naturalization Service (INS);
- 5) copies of U.S. Postal Service Form 3811, Domestic Return Receipt, which are stamped received by INS on August 25, 1999, and September 13, 1999.
- 6) a copy of a fingerprint on a card which also contains the applicant's signature;
- 7) a copy of the applicant's September 9, 1999 letter to the California Service Center, stating that her TPS application had been received by the INS on August 20;
- 8) a copy of the applicant's September 26, 1999 letter to the California Service Center, stating that she had submitted her application prior to the September 13, 1999 date stated in a previous letter;
- 9) a copy of the applicant's March 17, 2000 letter to the California Service Center, inquiring the reason for the rejection of her application on two separate occasions (the applicant returned the TPS application, the filing fee, copies of her passport, photographs, and correspondence;
- 10) a copy of a April 27, 2000 letter to the applicant from the California Service Center, returning the TPS application, received on April 14, 2000, with a request that she submit evidence that she was eligible for late registration;
- 11) a copy of a May 17, 2000 letter to the applicant from the California Service Center, returning the TPS application, received on May 17, 2000, with the notation "Do not resubmit;"
- 12) a copy of a July 27, 2000 letter to the applicant from the California Service Center, again rejecting the TPS filed by the applicant on June 1, 2000; and

- 13) a copy of page two of a decision from the director, denying the application for TPS because the applicant had not established that she was eligible for late registration.

Aliens applying under the provisions for late initial registration must prove that they are eligible because during the initial registration period of January 5, 1999 through August 20, 1999, they fell within the provisions described in paragraph (f)(2) above.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The applicant, on appeal, asserts that she is eligible for TPS because she has tried to comply with all regulations, and that it was not due to any fault on her part that her TPS application was not properly and timely filed. The applicant alleges that Latino Express Services, which she states is an immigration paralegal service, did not provide diligent care in completing her application for TPS. While the applicant claims that the initial TPS application was mailed on August 20, 1999, a U.S. Postal PS Form 3811, which she furnished as evidence, reflects that the initial TPS application was not received at the California Service Center until August 25, 1999. The applicant alleges that the "seal" on the initial TPS application shows an incorrect date, but she did not furnish a copy of the original TPS application to support that claim. Nevertheless, evidence furnished by the applicant show that her TPS application was rejected and returned to her on at least two occasions, April 27, 2000, and May 17, 2000, because it had not been properly filed. As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

It appears that all of the applicant's attempts to apply for TPS occurred after the initial registration period of January 5, 1999 to August 20, 1999.

The applicant did not properly file an application for TPS during the initial registration period from January 5, 1999 to August 20, 1999. 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 paragraph (f)(2) above. The applicant has not furnished evidence to establish that she met the qualification for late registration, and to overcome the findings of the director pursuant to 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish eligibility for late registration will be affirmed.

The applicant's statements made in response to the notice of intent to deny and on appeal have been considered. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above.

The burden of proof is upon the applicant to establish 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.