

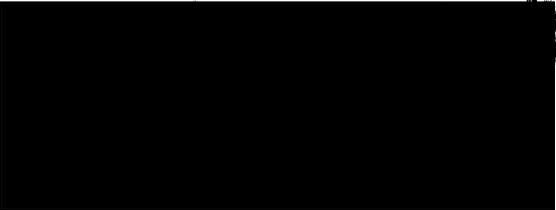
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: JUN 29 2004
[LIN 02 227 50181]

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
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 seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

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 also determined that the applicant had failed to establish that she entered the United States prior to December 30, 1998 and that she has been continuously physically present since January 5, 1999. The director, therefore, denied the application.

On appeal, the applicant claims that she has been in the United States since November 1998. She states that she needs a work permit because she must work to support her son. She states that she does not have a lot of proof to submit because she could not obtain an identification card when she first came to the United States. The applicant also states that she will submit a brief or additional evidence by April 17, 2003. To date, however, no brief or additional evidence has been received. Therefore, the record will be considered complete.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 condition described in paragraph (f)(2) of this section.

Continuously physically present 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.

Continuously resided 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.

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 current extension (effective on July 5, 2003) 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 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).

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

The record of proceeding confirms that the applicant filed her application for TPS on June 26, 2002, after the initial registration period had closed. 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).

On December 17, 2002, 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 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 March 4, 2003.

On appeal, the applicant submits evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her application for TPS 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.

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 December 17, 2002 to submit evidence establishing her qualifying residence and physical presence in the United States. In response, the applicant submitted the following documentation:

- 1.) a copy of an identification card, issued by the state of Nebraska, on April 19, 2002;
- 2.) a copy of a birth certificate for her son [REDACTED] who was born in Columbus, Nebraska, on December 16, 2000;
- 3.) a copy of an IRS Form W-2 for tax year 1999;
- 4.) a pay statement dated May 12, 1999;
- 5.) a December 21, 2002 statement from [REDACTED] who stated that she was an [REDACTED] representative in 1998, and that the applicant was one of her customers "since" November 1998;
- 6.) a December 23, 2002 statement from [REDACTED] who stated he has known the applicant since December 1998, and that she "lived with us" and also helped to clean the house and cook; and
- 7.) a December 23, 2002 statement from [REDACTED] who states that she has known the applicant since December 1998 and that the applicant attended the [REDACTED] church every weekend.

The director concluded that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant reiterates her claim to have resided in the United States since November 1998. She states that she could not obtain identification when she first came to the United States and she, therefore, does not have much proof to support her claim.

The applicant claims to have lived in the United States since November 1998. It is reasonable to expect that she would have some other type of contemporaneous evidence to support her claim; 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 applicant has not submitted sufficient evidence to establish that she has met the continuous residence and continuous 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 on this basis as well.

The burden of proof is upon the applicant to establish that 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.