



U.S. Citizenship  
and Immigration  
Services

MI

[Redacted]

FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: 07/10/09

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 data deleted to  
prevent disclosure of information  
that is exempt from public release

**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 determined that the applicant failed to submit any evidence, as had been requested, to establish that she qualified for late registration. The director, therefore, denied the application.

On appeal, the applicant states that she did respond to the director's request for additional evidence. She further states that she submitted a copy of her marriage certificate that was registered with the proper civil authorities. The applicant contends that she is not a late registrant.

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 parole; 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 used in 8 C.F.R. § 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998. 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 used in 8 C.F.R. § 244.1 means actual physical presence in the United States for the entire period specified in the regulations and since January 5, 1999. 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 since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. See 8 C.F.R. § 244.2(g).

The record reveals that the applicant filed her first application for TPS on June 12, 2000. The director denied the application on February 21, 2001, after determining that the application was filed after the initial registration period and that the applicant had failed to establish her eligibility for late registration. The applicant was granted 30 days to file an appeal, but failed to do so.

The record further reveals that the applicant filed her current application for TPS on June 14, 2002. She indicated that her spouse is a TPS recipient. The director noted that the applicant furnished a photocopy of a matrimonial certificate from Waukegan, Illinois, indicating that a religious marriage ceremony had been performed (on March 14, 1998). The applicant was, therefore, requested on January 15, 2003, to submit a photocopy of her civil marriage license or certificate. In response, the applicant submitted a marriage license issued by Lake County, State of Illinois, indicating that the applicant and her spouse were married on February 24, 2001. The director determined that the evidence submitted was insufficient to establish the applicant's eligibility for late registration and denied the application on March 11, 2003.

The applicant, on appeal, asserts that she is not a late registrant. She stated, in a letter dated June 8, 2002, that she has been residing in the United States since 1994, that this is her third application for TPS, and that she applied for TPS together with her husband. She further stated that her husband received approval of his TPS; however, the Service (now Citizenship and Immigration Services) continues to request from her evidence that was already sent. She resubmits a copy of her marriage license issued by the State of Illinois.

While regulations may allow spouses of aliens who are TPS-eligible to file their applications after the initial registration period had closed, the qualifying relationship must have existed during the initial registration period. The record reflects that the applicant was not legally married to her spouse until February 24, 2001. The applicant has not establish that she has met the requirement 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 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. The appeal will be dismissed.

**ORDER:** The appeal is dismissed.