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U.S. Citizenship  
and Immigration  
Services

MI

[REDACTED]

FILE: [REDACTED]

Office: TEXAS SERVICE CENTER

Date: SEP 11 2007

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.

*Cindy M. Homeny for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The matter will be remanded for further consideration and action.

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 was eligible for late registration.

On appeal, the applicant states that she has been living in the United States since 1998, and asks that her case be reviewed and accepted. She submits additional evidence in support of her appeal.

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.

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. The record reveals that the applicant filed her initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on June 10, 2002. It is noted that the applicant checked the box indicating that this was an application for re-registration. The record, however, contains no evidence of an earlier application for TPS.

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 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).

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).

On August 8, 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, 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 September 23, 2003.

On appeal, the applicant submits photocopies of the Employment Authorization Cards (EAD) for [REDACTED] indicating approval as a TPS applicant under 8 C.F.R. § 274a.12(a)(12), valid from October 16, 2002 through July 5, 2003, and subsequently from July 11, 2003 through January 5, 2005. Photocopies of the EAD card, also valid under category A12, for the applicant's 9-year-old child, [REDACTED] were submitted as well. The applicant resubmits the translation of her Marriage Certificate indicating that she and [REDACTED] were married in Honduras on March 14, 1992. A photocopy of the original marriage certificate and translation were included in the initial submissions.

The evidence of record confirms that the applicant's husband was granted TPS, and the record also shows that the applicant was married prior to the initial registration period. The applicant's qualifying relationship as the spouse of an alien currently eligible to be a TPS registrant existed prior to and during the initial registration period, and has not terminated. The applicant, therefore, has met one of the criteria making her eligible for late registration, pursuant to the regulation at 8 C.F.R. § 244.2(f)(2). The applicant, therefore, has overcome the only ground stated by the director for denial of the application.

It is noted, however, that the applicant has provided insufficient evidence to establish her qualifying continuous residence and continuous physical presence during the requisite time periods. Further, the director's request for additional evidence did not advise the applicant that the record was deficient in meeting these criteria and did not request additional evidence to establish her continuous residence and continuous physical presence during the required timeframes.

The applicant must establish her continuous residence since December 30, 1998, and continuous physical presence since January 15, 1999, in the United States. The record in total contains the following evidence:

1. A photocopy of the Honduran birth certificate for [REDACTED] on June 7, 1995, naming the applicant as the mother, and [REDACTED] as the father;
2. A photocopy of the applicant's Honduran birth certificate with English translation;
3. A photocopy of the Honduran Marriage Certificate reflecting the marriage in Honduras between the applicant and [REDACTED] on March 14, 1992, with English translation;
4. A photocopy of the applicant's Honduran passport issued in Honduras on August 29, 1996;
5. A photocopy of the applicant's Honduran national identity document issued on October 6, 1997;
6. Photocopies of the applicant's State of Florida Identification Card issued on August 25, 2000, and a Learner License Class E issued on October 24, 2000;
7. A photocopy of the applicant's EAD card, Category C19, valid from June 24, 2002 through July 5, 2003;
8. A photocopy of the applicant's Social Security card;
9. A photocopy of the applicant's Internal Revenue Service (IRS) Individual Taxpayer Identification Number;
10. Receipts listing the applicant's name and address, for clothing dated "2/06/1998," beauty supplies dated January 3, 1999, and business cards and flyers dated February 20, 1998;
11. A handwritten rent receipt for January 1 through February 1, 1999;
12. A letter from [REDACTED] Pastor Spanish Congregation, Central Baptist Church, Miami, Florida, indicating that the applicant has visited the church since February 20, 1998;
13. Photocopies of the Social Security and EAD cards for the applicant's child and husband; and,
14. Original Jackson Memorial Hospital, Miami, Florida, appointment forms dated July 21, 2003, and July 14, 2003.

The evidence establishes that the applicant is a national of a designated state eligible to receive TPS benefits.

It is noted, however, that the letter from the church pastor does not fully conform to the regulatory provisions at 8 C.F.R. § 244.9(a)(2)(v)(D), (F), and (G). The applicant has not submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c).

Because the applicant, on appeal, overcame the only stated reason for denial of the application, the case must be remanded for consideration of the additional grounds. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.



**ORDER:** The case is remanded to the director for further action consistent with the above and entry of a decision.