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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

M1



FILE: [REDACTED]
[SRC 02 196 55293]

Office: Texas Service Center

Date: APR 15 2005

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A motion to reopen was dismissed by the director. The matter is now before the Administrative Appeals Office (AAO) on a subsequent motion to reopen. The motion to reopen will be granted and 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 on August 7, 2002, after determining that the applicant had failed to establish her eligibility for late registration. The applicant filed an appeal to the director's decision, which was dismissed on August 5, 2003. On September 8, 2003, the applicant submitted a subsequent motion and reasserted her claim of eligibility for TPS.

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 TPS 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 application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on June 10, 2002.

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 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 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 director determined that the applicant had failed to establish her eligibility for TPS late registration; therefore, the director denied the application on August 7, 2002. On December 10, 2002, the applicant filed an appeal on the director's decision to deny her application. The appeal from the director's decision was dismissed on August 5, 2003, after the Director of the AAO also concluded that the applicant had failed to establish her eligibility for TPS late registration, and her continuous residence and continuous physical presence in the United States during the requisite time periods.

On September 8, 2003, the applicant files yet a second motion which is now before the AAO. In her motion, the applicant asserts that she has lived in the United States since 1998, and that she has all the evidence to verify that she has been living in the United States since 1998. Along with her motion, the applicant submits some evidence in an attempt to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999, to the date of filing her application. However, a review of the record of proceedings reflects that 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 decision to deny the application for temporary protected status on this ground 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, to the date of filing her application. Along with her motion, the applicant provides the following documentation: copies of her customer statements from Florida Power & Light Company dated January 13, 2003, and February 17, 2003; copies of her BellSouth monthly statements dated January 2, 1999, February 2, 1999, and March 2, 2003; copies of her earnings statements from Coastal Sunbelt Produce Company reflecting pay periods of April 23, 2002, April 30, 2002, and May 21, 2002; a copy of a letter dated April 25, 2001, from the Prince George's County Health Department in Largo, Maryland; copies of her earnings statements from Green Castle International, Inc, reflecting pay check dates of July 28, 2000, September 1, 2000, October 27, 2000, and January 1, 2001; a copy of a residential lease agreement between the applicant and [REDACTED] a copy of her earnings statement from Ann's House of Nuts, Inc., reflecting a pay date of December 12, 1998.

The letter from the Prince George's County Health Department does not reflect the applicant's name, and thus, has little, if any, evidentiary weight. The copy of the lease agreement in the names of the applicant and [REDACTED] appears generic and is not signed. The remaining evidence submitted on motion, with the exception of the earnings statement from Ann's House of Nuts, Inc., post-date the requisite time periods for continuous residence and continuous physical presence in the United States. It is noted, however, that the photocopied earnings statement from Ann's House of Nuts, Inc. appears to have been altered as the original period ending and pay date seem to have been covered-over and earlier dates inserted in their place. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the apparent alteration of the earnings statement as mentioned above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy 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 on these grounds will also be affirmed.

An alien applying for TPS 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.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to her.

ORDER: The appeal is dismissed.