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**U.S. Citizenship  
and Immigration  
Services**



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FILE:



Office: VERMONT SERVICE CENTER

Date: **AUG 16 2005**

[EAC 02 199 51443]

IN RE:

Applicant:



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

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated to be a 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 because the applicant failed to establish she was eligible for late registration. The director also determined that the applicant had not established that she has been residing in the United States since December 30, 1998.

On appeal, the applicant provides a brief statement and additional documentation.

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.

The first issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

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 July 5, 2006, upon the applicant's re-registration during the requisite time period.

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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reflects that the applicant filed her initial application with Citizenship and Immigration Services (CIS), on May 18, 2002. It is noted that the record indicates that the applicant entered the United States in February of 2001.

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 record of proceeding confirms that the applicant filed her application for TPS on May 18, 2002, after the initial registration period had closed. 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).

In a notice of action, dated July 1, 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 establish her continuous residence in the United States since December 30, 1998. The applicant was further requested to establish her continuous physical presence in the United States since January 5, 1999.

The director determined that the applicant, in her response to the notice of intent to deny, had not established her eligibility for late registration. The director also determined that the applicant had not established that she had been residing in the United States since December 30, 1998. On May 30, 2003, the director denied the application for TPS.

On appeal, the applicant states that she came to the United States to look for her mother and family. The applicant also states that her "mother has T.P.S. [sic], and my father is a permanent resident in the United States." The applicant provides: previously submitted copies of her mother's employment authorization cards and her mother's social security card; an Affidavit of Support from her mother; and, a copy of the Service's Respondent In Removal Proceedings Decision ordering the applicant removed from the United States. It is noted that the date of issuance on the decision merely indicates the month, day and just the number 2 for the year (Jul 10, 2). The page appears to have been folded over to block the remaining numbers of the year. 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, 591-92 (BIA 1988). 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 visa petition. *Id.*, 582, 591.

While regulations may allow an alien currently eligible to be a TPS registrant to file an application after the initial registration period had closed, these regulations do not relax the other requirements for eligibility for TPS. The applicant's TPS application indicates that she did not enter the United States until February of 2001; almost three years after the initial registration period had ended. The applicant is not eligible for late registration under 8 C.F.R. § 244.2(f)(2), as she arrived in the United States subsequent to the eligibility period. Consequently, the director's decision to deny the application for temporary protected status on this ground will be affirmed.

The second issue raised by the director to be addressed in this proceeding is whether the applicant has established her continuous residence in the United States since December 30, 1998.

The phrase 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 phrase 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

As previously stated, the director, in his decision dated May 30, 2003, found that the applicant had failed to establish her continuous residence in the United States during the required timeframe.

On appeal, the applicant states that she came to the United States to look for her mother and family. The applicant submits an Affidavit of Support dated August 5, 2002, from her mother who states that the applicant does not have any kind of "legal documents as Phone Bills, Electric Bills, or other like wise, since she is under my total economical care."

No documentary evidence has been presented on appeal to establish that the applicant has been continuously residing in the United States since December 30, 1998. Also, the majority of the documentary evidence contained in the record does not begin until 2001, which is almost three years after the onset of the qualifying timeframe. The applicant's statement on appeal, her mother's affidavit, and the 2001 documentation previously submitted, are not sufficient for the purpose of meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Further, as the record indicates that, the applicant did not enter the United States until February of 2001, she could not possibly establish continuous residence in the United States since December 30, 1998, until the filing date of her TPS application. Consequently, the director's decision to deny the application for temporary protected status for this reason will also be affirmed.

Beyond the decision of the director, for the reasons stated above, the applicant is unable to establish that she has been continuously physically present in the United States during the required timeframe. Therefore, the application must also be denied for this reason.

An alien applying for temporary protected status 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.

**ORDER:** The appeal is dismissed.