



U.S. Citizenship
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Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: **DEC 27 2005**

[WAC 05 013 52392]

IN RE:

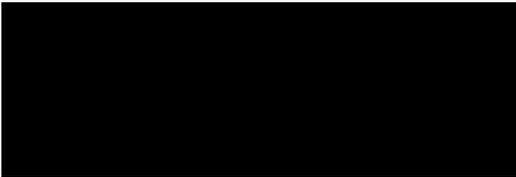
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 Mexico 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's country of nationality is not a designated foreign state for temporary protected status.

On appeal, counsel submits a statement. She also submits evidence previously furnished and contained in the record of proceeding.

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 § 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.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed her TPS application on October 1, 2004. To support her claim of eligibility for TPS, the applicant submitted: (1) her birth certificate indicating that she was born in Mexico on February 19, 1990, to a Mexican mother and a Mexican father; (2) her mother's marriage certificate indicating that she married [REDACTED] (a Honduras national) on February 26, 1997; and (3) copies of Employment Authorization Cards and Form I-797 (Notice of Action) dated April 5, 2000, as evidence that [REDACTED] had been granted TPS.

The director noted that the applicant is a national of Mexico, and that her country of nationality is not a designated foreign state for temporary protected status. Therefore, the director denied the application on November 18, 2004.

On appeal, counsel asserts that the applicant is eligible for TPS, as provided in 8 C.F.R. § 244.2(f)(2)(iv), because she is the stepchild of a Honduran national who had been granted TPS.

Regulations at 8 C.F.R. § 244.2(f)(2) allow spouses and children of aliens who are TPS-eligible to file their applications after the initial registration period had closed; however, these regulations do not relax the requirements for eligibility for TPS. The record indicates that the applicant is a native and citizen of Mexico. The applicant is required to meet the eligibility requirements that she is a national of a designated foreign state pursuant to section 244(c) of the Act. The country of Mexico is not a foreign state designated under section 244 of the Act. Therefore, the applicant is statutorily ineligible for TPS. Accordingly, the director's decision to deny the application will be affirmed.

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.