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U.S. Department of Homeland Security
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**U.S. Citizenship
and Immigration
Services**

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MZ

FILE: 

Office: Texas Service Center

Date: FEB 18 2005

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.

Cindy N. Gomez 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 appeal will be dismissed.

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 had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant submits a 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 Temporary Protected Status 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 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 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 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.

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. 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.

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 Citizenship and Immigration Services (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).

On June 2, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration and her residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. The applicant was also requested to submit evidence of her nationality. The applicant, in response, provided the following documentation:

1. A copy of her Honduran identity card;
2. Copies of six unnumbered rent receipts for August of 1998, January and April of 1999, December of 2000, and March of 2002;
3. A copy of her Tuberculine skin test and an application for a Florida driver's license dated April 16, 1999;
4. An affidavit from [REDACTED] indicating that the applicant cared for her children during 1998 and 1999;
5. Copies of "five money grams" dated June 7, 1998, May 7, 1999, August 6, 2000, March 4, 2001, and April 5, 2002;
6. Copies of seven receipts for various months in 2002 and one for 1998;
7. Copies of three Tele-Giros receipts dated November 21, 2001, December 16, 2001, and March 24, 2002;
8. Copies of two Gigante Express receipts dated May 15, 1998, and January 3, 1998;
9. A copy of a pharmacy receipt dated March 3, 2000, and a statement bill dated March 18, 2000; and,
10. A copy of a pharmacy receipt dated January 12, 1999.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on October 15, 2003.

On appeal, the applicant requests the opportunity to be employed and pay her taxes and submits the following documentation:

11. Copies of three Bell South bills dated April 20, 1999, March 22, 1999, and October 22, 1999.

The hand-written rent receipts detailed in No. 2 above are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these documents; however, no such evidence has been provided. Furthermore, the credibility of this evidence is suspect since these receipts, which were allegedly issued to the applicant over a four year period, bear no numbers. Therefore, these receipts, alone, are not sufficient to establish the applicant's continuous qualifying residence of physical presence in the United States.

The employment affidavit from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant

does not provide the address where the applicant resided during the period of her employment. It is further noted that the affiant did not indicate the location of her residence where the applicant was employed

The applicant also presented customer billing documents from Bell South. These photocopies appear to have been altered. 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 not submitted sufficient credible evidence to establish her qualifying continuous residence or 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). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, the applicant has not established her eligibility for late registration under 8 C.F.R. § 244(f)(2). 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 March 24, 2003. Therefore, the application must also be denied for this reason.

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.

ORDER: The appeal is dismissed.