

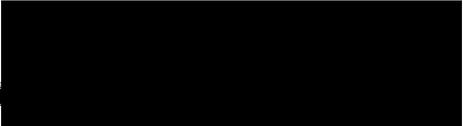
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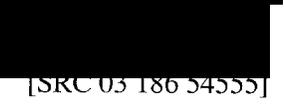
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: TEXAS SERVICE CENTER

Date: JUL 05 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was initially denied due to abandonment by the Director, Texas Service Center, on October 30, 2003. The applicant filed a motion to reopen on December 15, 2003, that was granted by the service center director. Following the applicant's response to another request for additional evidence, the service center director, on February 24, 2004, denied the application for cause. The applicant submitted a timely appeal. The matter is now before the Administrative Appeals Office (AAO) on appeal. 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 because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant submits a statement.

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 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 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.

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 Citizenship and Immigration Services (CIS), on June 23, 2003.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g).

On September 9, 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 was also requested to submit evidence establishing her continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the applicant was also requested to submit evidence of her identity and nationality, in the form of: photo identification or a national identity document from her country of origin bearing a photograph and/or fingerprint; birth certificate, with English translation; and, her current driver's license. Finally, the applicant was also requested to submit certified court disposition documents for charges that appeared on the Federal Bureau of Investigation (FBI) fingerprint results report pertaining to her fingerprints. These charges included:

On January 5, 2003, the applicant was arrested by the Aventura Police Department, Florida, and charged with:

CHARGE 001 - Nonmoving Traffic Violation-No Valid Drivers License

CHARGE 002 - Cocaine Possession, Statute/Ordinance FL893.13(6A), a 3<sup>rd</sup> Degree Felony

The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned her application and denied the application on October 30, 2003. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen.

On December 15, 2003, the applicant filed a motion to reopen in which she stated that she never intended to abandon her application. She indicated that she had moved from Miami, Florida, to Philadelphia, Pennsylvania, and provided her new address. The applicant stated that she applied late for TPS because of her abusive domestic relationship. She stated that she entered the United States in November 1998, at age 16, and resided with her former boyfriend and his sister where she felt kidnapped and as if she lived in a prison. When the TPS program initially opened, the applicant said her boyfriend told her that she did not qualify and she did not apply. She stated that her boyfriend, to whom she considered herself married, began to abuse her and threatened that she would be deported if she reported him to the police. The applicant stated that she gave birth to a son on January 24, 2001, whom she believes was traumatized by the abuse. She stated that her son had five heart operations and passed away in September.

On January 7, 2004, the service center director reopened the applicant's case and again issued another notice of intent to deny, requesting all of the documentation as detailed above.

The applicant, in response, provided photocopies of the following documentation:

1. The biographic page of her Honduran passport issued on July 17, 2003, by the Consulate General, Miami, Florida;
2. Her Honduran birth certificate, with English translation;
3. Her State of Florida Identification Card issued on July 25, 2003, and Florida Driver License issued on July 29, 2003;

4. A notarized letter dated January 21, 2004, indicating that the applicant stayed in Brownsville, Texas, for about one week beginning in November 30, 1998, and then left for Miami, Florida, with her boyfriend;
5. An affidavit dated January 27, 2004, from the sister-in-law of the applicant's former boyfriend stating that the applicant lived in her home in Miami, Florida, for seven months;
6. A character reference dated January 27, 2004, stating that the applicant used to clean her home;
7. A hair salon receipt dated February 14, 1999;
8. A Club Musica Latina card valid from December 2002;
9. Original medical care identification cards from Penalver Clinic dated December 16, 2000, and from Jackson Memorial Hospital dated January 31, 2001;
10. A State of Florida birth certificate for a son born to her on January 21, 2001;
11. Her son's Social security card;
12. The arrest record for her January 5, 2003, arrest for No Driver License and Possession of Cocaine; and,
13. A certified disposition, Dade County, Florida, Circuit Court – Criminal Division, reflecting that no action was taken and the criminal case was closed on January 27, 2003.

It is noted that with her initial application the applicant also submitted photocopies of: a Final Judgment of Injunction for Protection Against Domestic Violence with Minor Child(ren) (After Notice), filed on January 21, 2003, with the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, ordering protection for her and her son from [REDACTED] and, the cover and biographic pages of her Honduran passport issued on August 25, 1999, and bearing the stamp of the Secretaria de Relaciones Exteriores, Honduras.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on February 24, 2004.

On appeal, the applicant states that she would like to be given the opportunity to get ahead with honesty and hard work. She states that when her boyfriend began to seriously mistreat her, she felt she had nowhere to turn. She did not want to return to Honduras where her family had lost everything in the hurricane and she had no way to help support them. She believes the severe abuse she endured resulted in the cardiac problems her son experienced from birth. After undergoing five operations, she states that her son passed away on September 21, 2003. She states that she did not apply for TPS earlier because she was a victim of abuse and lacked the knowledge and help she needed.

The reasons given by the applicant for not filing her Form I-821, Application for Temporary Protected Status, during the initial registration period do not fall within the allowable provisions for late registration. There are no further humanitarian provisions under the TPS program. 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 will be affirmed.

Beyond the decision of the director, the applicant has failed to submit sufficient evidence to establish her date of entry prior to December 30, 1998, her qualifying continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. The applicant's passport issued on August 25, 1999, reflects that it was issued in Honduras. The applicant did not explain how she obtained this passport after her stated date of entry into the United States. The only evidence of her residence and presence in the United States during the initial portion of the requisite dates consists of the statements detailed above at numbers 4, 5, and 6. These statements have little evidentiary value and are not supported by

corroborating evidence. The applicant has, therefore, also failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

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.