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FILE: [REDACTED]
[LIN 02 227 50417]

Office: NEBRASKA SERVICE CENTER

Date: **JUL 18 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 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.

On appeal, the applicant asserts her claim of eligibility for TPS and submits evidence in support of her claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant 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 § 244.3;
- (e) Is not ineligible under § 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.

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 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 October 3, 2003, the applicant was requested to submit evidence to establish her eligibility for TPS late registration. The applicant was also requested to submit evidence establishing her date of entry to the United States as of December 30, 1998, her 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 did not respond to the director's request; therefore, the director determined that the applicant had failed to establish her eligibility for TPS and denied the application on November 19, 2003.

The applicant filed an appeal which was received by the NSC on February 12, 2004. Since the appeal was untimely filed, the director treated the appeal as a motion to reopen, pursuant to 8 C.F.R. § 103.3(a)(1)(v)(B)(2), and rendered a decision on the merits of the case. After a complete review of the record of proceedings, including the motion, the director determined that the applicant had failed to establish her eligibility for TPS. The director, therefore, affirmed his previous decision and denied the application on February 26, 2004.

On March 18, 2003, the applicant filed an appeal which is now before the AAO. On appeal, the applicant states that she has been in the United States since 1997. The applicant also submits the following documentation in support of her eligibility for TPS: an affidavit dated February 4, 2004, from [REDACTED] who stated that she and the applicant arrived the United States in 1997; an affidavit dated February 1, 2004, from [REDACTED] who stated that he has known the applicant since July 2001, and that the applicant arrived the United States in 1997; an affidavit dated February 3, 2004, from [REDACTED] who stated that the applicant was his roommate from October 2000 to July 2001, and that the applicant arrived the United States in 1997; an affidavit dated February 2, 2004, from [REDACTED] who stated that the applicant arrived the United States in 1997; copies of receipt notices from the Service dated June 23, 2003, and February 12, 2004; copies of her Wisconsin Identification Card issued on June 30, 2003; copies of hand-written receipts from Morales Furniture dated February 11, 1997 and July 26, 1998; copies of hand-written Western Union money transfer receipts some bearing illegible dates and others dated January 21, 1999, December 22, 1999, March 20, 2000, and February 2, 2001; a copy of a Western Union money transfer receipt dated March 20, 2000, bearing the name of [REDACTED]; [REDACTED] copies of billing statement dated September 6, 2003, and a service contract dated June 21, 2003, from Dish Network; a copy of a Western Union money transfer receipt dated June 29, 2002; and a copy of her Form W-7, Application for IRS Individual Taxpayer Identification Number, dated February 10, 2004.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On appeal, the applicant submits documentation relating to her continuous residence and continuous physical presence in the United States; however, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status within the initial registration period. 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 conclusion that the applicant had failed to establish her eligibility for TPS late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her date of entry into the United States as of December 30, 1998, her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

The copies of receipts from Morales Furniture pre-date the beginning of the requisite time periods for Honduran TPS by over five months. Also, the Western Union money transfer receipts, the Dish Network billing statement, and the Form W-7, all post-date the requisite time period of Honduran TPS. In addition, the statements provided by the affiants on appeal regarding the applicant's claimed continuous residence and continuous physical presence in the United States are not supported by corroborative evidence covering the entire requisite time periods for Honduran TPS. It is also noted that the applicant stated on her application for temporary protected status that she claimed to have entered the United States on May 31, 1998; however, the affiants stated that she arrived in the United States in 1997. 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 discrepancies in her date of entry to the United States. Therefore, the reliability of the remaining evidence offered by the applicant is suspect. The applicant has not submitted sufficient evidence to establish her date of entry into the United States since December 30, 1998, her qualifying continuous residence in the United States since December 30, 1998, or her continuous physical presence in the United States since January 5, 1999. The applicant has, therefore, 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 on these grounds will 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.

ORDER: The appeal is dismissed.