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

MI

FILE: [REDACTED]
[SRC 03 177 56348]

Office: TEXAS SERVICE CENTER Date: JUL 20 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
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 (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.

The record includes a Form G-28, Notice of Entry of Appearance as Attorney or Representative, submitted by a law school graduate. However, the U.S. Department of Justice, Executive Office for Immigration Review, Recognition and Accreditation Roster does not list either the representative or the organization as recognized entities. Therefore, the applicant will be considered as self-represented, and the decision rendered only to her.

On appeal, the applicant submits a statement and additional evidence.

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 10, 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 26, 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 in the United States since December 30, 1998. The applicant, in response, provided two letters dated October 20, 2003, from acquaintances indicating they met the applicant at church and have known her since March 1998, and January 2001, respectively; and, a letter dated October 20, 2003, from Veronica Rios, stating that the applicant lived with her from January 1998 through June 2000.

It is noted that with the initial TPS application, the applicant also provided photocopies of: her Honduran birth certificate, with English translation; her Honduran national identity document issued on May 30, 1997; a letter dated September 16, 2002, from an acquaintance indicating she met the applicant at church and has known her since August 2000; a letter dated May 26, 2003, from [REDACTED] stating that the applicant is living with her for an unspecified period of time; and, a letter dated September 16, 2002, from the Assistant Pastor, Ministerio Dumamis El Poder de Dios, Laredo, Texas, stating that the applicant has been an active member of the church since February 2000.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on November 13, 2003.

On appeal, the applicant states that when she entered the United States in March 1998 she did not know she had the opportunity to register for TPS. When she learned of the program, she states that she paid \$600 to a representative who took her money, but failed to file a TPS application on her behalf. She states that her son then attempted to file a TPS application for her, but the due date had passed. During a subsequent re-registration period she states she filed this application, and is willing to pay any penalties for not having registered earlier. She states that her two children are in school and depend on her support. She also indicates that she does not have invoices or statements under her name because she cannot cash checks as she lacks a Social Security card and driver's license. She states her only proof of residence is correspondence and reference letters from those she knows. In support of the appeal, the applicant resubmits some of the documentation previously entered into the record. The applicant also submits additional evidence relating only to her residence and physical presence in the United States, consisting of:

1. A baptismal record dated June 3, 2001, from Dunamis Ministries, Laredo, Texas;
2. The biographic page of her Honduran passport issued on March 15, 2002, bearing the stamp of the Secretaria de Relaciones Exteriores, Honduras;
3. Western Union receipts dated in the year 2002 and 2003;
4. Unlabelled photographs;
5. Personal letters dated May 10, 2000, October 10, 1999, and October 10, 1998;
6. A letter and certificate from Radio Manantial dated in March and May of 2002; and,

7. An "Express" mail receipt dated October 21, 2003.

The applicant submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. The reasons given by the applicant for not filing her TPS application during the initial registration period do not fall within the allowable provisions for late registration. 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 not submitted sufficient credible evidence to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. It is noted that on her Form I-821, at Part 2 and Part 4, and on her Form I-765, Application for Employment Authorization, the applicant certified under penalty of perjury that she entered the United States on February 15, 2000. On appeal, the applicant now states that she entered the United States in March 1998. Additionally, the applicant's passport indicates that it was issued to her on March 15, 2002, in Honduras; thereby also precluding a favorable finding that she was in the United States during the requisite periods. She has not offered an explanation for these discrepancies. 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, therefore, 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.