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U.S. Citizenship
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Services

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FILE: [Redacted]
[LIN 03 209 50545]

Office: Nebraska Service Center

Date: JUN 10 2005

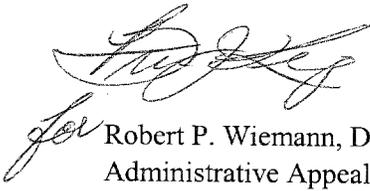
IN RE: Applicant: [Redacted]

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.


for 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 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 she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the director found that the applicant failed to submit evidence that Ms. [REDACTED] and Ms. [REDACTED] are one and the same person.

On appeal, the applicant asserts her eligibility for TPS and submits additional 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 who is a national of a foreign state designated by the Attorney General 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 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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS), on June 24, 2003.

On September 11, 2003, the applicant was requested to submit evidence establishing her date of entry into the United States on or before December 30, 1998, her continuous residence in the United States as of December 30, 1998, and her continuous physical presence in the United States from January 5, 1999, to the date of filing her

application. In addition, the applicant was requested to submit evidence that Ms. [REDACTED] and Ms. [REDACTED] are one and the same person. 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 December 3, 2003.

On appeal, the applicant states that she never received the director's September 11, 2003 request. The applicant also provides additional evidence along with her appeal. The applicant also supplemented the appeal by submitting additional evidence on January 19, 2005, in support of her eligibility for TPS.

A review of the record reflects that the director's September 11, 2003 notice was sent to the applicant's last known address of [REDACTED] which is also her current address. It is interesting to note, however, that the applicant did receive the director's notice to deny her application at the [REDACTED] street address.

The first issue in this proceeding is whether the applicant is eligible for late registration. The applicant submits, on appeal, additional evidence in an attempt to establish 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 decision to deny the application for TPS on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established that she and Ms. [REDACTED] are one and the same person. A review of the record of proceedings reflects that the applicant submitted copies of her birth certificate and the biographical pages of her Honduran passport bearing the name of "Ms. [REDACTED]". However, the applicant failed to provide any credible evidence to establish the legal use of her claimed name of [REDACTED]. Evidence of the use of two names may include, but not limited to, a marriage certificate or court document registered with the proper civil authorities reflecting a name change for that individual. It is noted that although the record contains a copy of a Honduran birth certificate of her daughter, [REDACTED] reflecting the applicant's name as Ms. [REDACTED]" the record does not contain any evidence of such name change by a proper civil authority. The applicant, therefore, has not established that she and Ms. [REDACTED] are one and the same person. Consequently, the director's decision to deny the application for TPS on this ground will also be affirmed.

The third 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, to the date of filing her application. As stated previously, the applicant failed to establish that she and Ms. [REDACTED] are one and the same person. It is also noted that the applicant submitted evidence reflecting two other names: Ms. [REDACTED] and Ms. [REDACTED] in an attempt to establish her continuous residence and continuous physical presence in the United States. 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 use of these four different names. Therefore, the reliability of the evidence offered by the applicant is suspect. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status 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.