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U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JUN 15 2005

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IN RE:

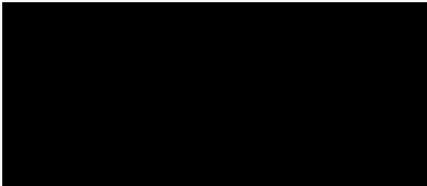
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, 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 determined that the applicant failed to establish she: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director also determined that the applicant failed to provide a copy of a current photo identity document. The director, therefore, denied the application.

On appeal, counsel asserts that the applicant is eligible for late initial registration because the applicant still has an outstanding asylum application pending. Counsel also submits a brief 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 as 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 term 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 term 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.

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 initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed her initial application with Citizenship and Immigration Services (CIS) on July 9, 2003.

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 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).

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

The record of proceeding 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 from January 5, 1999 through August 20, 1999, 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 the late initial registration. See 8 C.F.R. § 244.2(g).

On August 21, 2003, the applicant was provided the opportunity 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 nationality and identity, her date of entry and continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in response, provided evidence of her nationality and identity, and

evidence in an attempt to establish her continuous residence and continuous physical presence in the United States. The applicant did not present any evidence of her eligibility for late registration. Therefore, the director denied the application.

On appeal, counsel states that the applicant is eligible for late initial registration because she has an asylum application pending. According to counsel, the applicant has resided in the United States since 1988.

The record indicates that the applicant had previously filed a Form I-589, Request for Asylum in the United States. This application, however, was denied in June 1988. Based on that denial, the applicant was placed in deportation proceedings and ordered deported on December 19, 1989 at San Diego, California. In this case, the applicant's asylum application was closed on June 7, 1988. The applicant has failed to establish that she met the requirements for late registration described in 8 C.F.R. § 244.2(f)(2) and/or (g). Consequently, the director's conclusion that the applicant failed to establish her eligibility for late registration is affirmed.

The second and third issues in this proceeding are whether the applicant has established her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on August 21, 2003, to submit evidence establishing her qualifying residence and physical presence in the United States. In response, the applicant submitted the following documentation:

1. A copy of her birth certificate, with English translation.
2. Copies of a 2002 Tax Return Form 1040 and an Internal Revenue Services (IRS) notice, which does not bear the applicant's name, regarding an error on the applicant's 2002 tax return dated February 17, 2003.
3. A copy of her child's birth certificate, issued on July 8, 1996 and a copy of an affidavit verifying the birth of the applicant's child, dated August 21, 2002; a copy of a birth certificate dated October 12, 2002, indicating the birth of another of the applicant's children on August 15, 2002, and a copy of the immunization record for the applicant's child, with no dates on it.
4. A copy of a dentist's bill dated July 1, 2003, which does not bear the applicant's name.
5. Copies of various generic handwritten receipts, dated May 1, 1981 and May 14, 1991, and copies of generic rent receipts, dated July 19, 1981, January 7, 1982, March 5, 1999, June 5, 1999, and November 3, 1999.
6. A copy of an appointment register showing various 2002 office visits.
7. A copy of a bill from Entergy, dated December 23, 2002; a copy of a bill from Worthington Public Utilities, dated April 23, 2003; a copy of a bill from Frontier Communications, dated February 1, 2003; a copy of a payment coupon from Mediacom LLC, dated March 27, 2003; and, a Mediacom billing statement, dated April 23, 2003, and an undated copy of a bill from Aquila.

8. Copies of receipts from First State Bank Southwest for bank charges, dated January 24, 2003 and January 28, 2003; copies of bank deposit tickets dated January 8, 2003 and October 16, 2002; and, a copy of savings book page showing activity in March April and May 2003.
9. Copies of an insurance coverage schedule with an effective date of August 20, 2001, and a letter from Physicians Mutual and Physicians Life Insurance Company indicating coverage since August 20, 2001.
10. A copy of an undated receipt from the Storage Center.
11. Copies of personal checks written by the applicant, dated February 20, 1981; February 22, 1981; February 26, 1981; March 12, 1981; May 3, 1981; February 15, 1990; February 19, 1991; March 20, 1991; February 15, 1996; and, January 26, 2001. There is no indication that the checks were cancelled.
12. Copies of earnings statements from [REDACTED] dated April 30, 2002 and April 16, 2002 in the name of [REDACTED].
13. A copy of part of a notice from Social Security Administration dated September 12, 2002.
14. A copy of receipt from American Pawn dated December 7, 2002.
15. Copies of a rent ledger showing dates from October 27, 2000 to April 6, 2001, and a copy of a lease agreement in the applicant's name from November 1, 2000 to April 31, 2001.
16. A copy of a letter from the Immigration and Naturalization Service dated January 4, 1988.
17. Copies of an illegible State of California Identification Card with an expiration date of December 27, 2001, and copies of the applicant and her child's social security cards.

The only evidence provided by the applicant that indicates that she was present in the United States before December 30, 1998, are her child's birth certificate issued on July 8, 1996, the personal checks dated February 20, 1981, February 22, 1981, February 26, 1981, March 12, 1981, and May 3, 1981, the handwritten receipt dated May 1, 1981, and the letter from INS dated January 4, 1988. The birth certificate and letter from INS establish that the applicant was present in the United States on those dates, but do not establish that the applicant maintained continuous residence and continuous physical presence in the United States during the qualifying period.

The checks, dated February 22, 1981, February 26, 1981, March 12, 1981, and May 3, 1981, appear to be altered.

The director concluded that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant furnished:

1. A copy of a billing statement from Dr [REDACTED] dated July 2, 2003.
2. A copy of a summary of charges from Worthington Regional, Worthington, Minnesota, dated September 9, 2003.
3. Copies of 2000, 2001, and 2002 Forms 1040, U.S. Individual Tax Returns.
4. Copies of a letter from the Social Security Administration dated August 21, 2002.
5. Copies of a check from the A & J Company, location unknown, dated September 13, 2002 in the name of [REDACTED]
6. Copies of a handwritten receipt dated August 29, 2001.
7. A letter from Jackson Hewitt dated February 6, 2001.
8. A copy of a document from Physicians Mutual Insurance Company dated August 11, 1998.
9. Copies of documents in the applicant's husband's name with dates of August 27, 1998, October 1, 1998, December 10, 1998, August 31, 2001, February 5, 2002, and May 7, 2002.
10. Copies of various documents in the name of the applicant's son with dates of February 13, 1997, December 10, 1998, March 9, 1999 and October 15, 1999, October 4, 2000, June 11, 2002, December 1, 2003, and January 7, 2003.

The applicant also resubmitted evidence previously provided.

The handwritten receipts are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that any other relevant documents "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since January 1980. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

The Physicians Mutual Insurance Company document does indicate the applicant's presence in the United States prior to December 30, 1998. However, the date on that document appears to have been altered. Furthermore, another letter from the company clearly states that coverage began on August 20, 2001. It is also noted the marriage certificate and birth certificate of one of the children also appears 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, in fact, 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 apparent alterations of the document or the conflict of dates of coverage.

The applicant also provided documents in her husband's and son's name that indicates their presence and continuous residence. However, none of these documents bear the applicant's name and therefore offer no evidence of her presence in this country. The documents are therefore of little or no probative value in determining the applicant's continuous residence and continuous physical presence.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the periods from December 30, 1998 and January 30, 1998. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). The applicant has also failed to submit the requested current photo identity document. Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

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.