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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

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FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date: JUN 27 2005

[SRC 04 090 53695]

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 director also found that the applicant had failed to establish her qualifying continuous physical presence in the United States during the requisite period. The director also found that the applicant failed to submit photocopies of her driver's license and birth certificate, with English translation.

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 February 9, 2004.

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).

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 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 February 23, 2004, 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 physical presence in the United States since January 5, 1999. In addition, the applicant was asked to submit photo identification or a national identity document from her country of origin bearing a photograph and/or a fingerprint, along with a copy of her current driver's license. The applicant, in response, provided photocopies of the following documentation: partial AT&T billing statements dated in 1999; partial utility billing statements dated in 1999; and, two receipts in her name dated in 1999.

It is noted that with the initial TPS application, the applicant also provided photocopies of her Honduran national identity card issued on February 23, 1999, and money transfer receipts all dated in 1998.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 26, 2004.

On appeal, the applicant states that she would like to be given "the opportunity to continue being legal in this country in which with a lot of difficulty [she has] lived here without having a better opportunity in employment and also to pay [her] taxes [sic]." She states that she has been living in the United States since 1998. She states that she did not apply during the initial registration period because she lacked the correct information about filing her application and feared being deported. In support of the appeal, the applicant submits the following additional evidence:

1. Another copy of her Honduran national identity document issued on February 23, 1999;
2. Her Honduran birth certificate, with English translation;
3. Generic receipts dated in 1999;
4. A Customer Guarantee Deposit Certificate, Florida Power & Light Company, for an initial deposit, dated June 22, 1999;
5. A Final Notice for payment, Florida Power & Light Company, dated July 13, 1999; and,
6. Billing statements from Florida Power & Light Company dated in August, September, November and December 1999.

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. It is noted that on the Form I-765, Application for Employment Authorization, the applicant indicated both her manner of entry into the United States and her current immigration status as entry without inspection (EWI), while on the Form I-821, the applicant indicated that she entered the United States without inspection, and listed her current immigration status as an F-1, nonimmigrant student. The applicant, however, presented no evidence

to substantiate that she had been granted any type of nonimmigrant status. 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.

The second issue in this proceeding is whether the applicant has established her continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on February 23, 2004 to submit evidence establishing her qualifying continuous physical presence in the United States. In response, the applicant submitted partial billing statements and receipts all dated in 1999.

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

On appeal, the applicant submits generic receipts and Florida Power & Light Company billing statements all dated in 1999.

The applicant has not submitted any evidence of her physical presence in the United States for the years 2000 through the filing date in February 2004. In addition, it is noted that many of the documents contained in the record appear 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). On the Form I-821, the applicant indicated her date of entry into the United States as December 27, 1997, while on appeal she indicates she has been in the United States since 1998. It is also noted that the applicant's Honduran national identity document indicates that it was issued to her on February 23, 1999, after the applicant's claimed date of entry into the United States. The applicant has not offered an explanation for this. The applicant has, therefore, failed to credibly establish that she has met the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for temporary protected status on this ground will also be affirmed.

The director also found that the applicant failed to submit photocopies of her driver's license and birth certificate, with English translation. On appeal, the applicant submits a photocopy of her birth certificate with English translation, and a more legible copy of her Honduran national identity document. While she has not submitted a driver's license, these documents are sufficient for establishing her identity and nationality.

Beyond the decision of the director, for the reasons discussed above, the applicant has also failed to submit sufficient credible evidence to establish her continuous residence in the United States since December 30, 1998. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(c), and the application must also be denied for this reason.

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.