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U.S. Citizenship
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FILE: [REDACTED]
[EAC 03 195 50446]

Office: Vermont Service Center

Date: MAR 17 2015

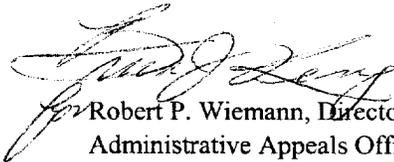
IN RE: Applicant: [REDACTED]

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, Vermont 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. The director also found that the applicant had failed to establish her continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts her 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.
- (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 initial application with Citizenship and Immigration Services (CIS), on June 7, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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).

On July 14, 2003, the applicant was also requested to submit evidence establishing her residence in the United States as of December 30, 1998, and her physical presence in the United States from January 5, 1999, to the date of filing her application. On August 18, 2003, the applicant requested an additional 30 days to submit documentation in support of her eligibility for TPS. However, the applicant did not respond within the allotted time frame; therefore, the director determined that the applicant had failed to submit evidence to establish her eligibility for TPS and denied the application on December 12, 2003.

On appeal, the applicant states that she qualifies for late TPS registration because her husband is a TPS registrant. The applicant also submits the following documentation along with her appeal in support of her eligibility for TPS: an unsigned letter dated January 4, 2004, from Ventnor Diagnostic Center located in Ventnor City, New Jersey; a copy of her husband's Employment Authorization card bearing a category of "A12"; an affidavit dated January 3, 2004, from [REDACTED], who stated that he has known the applicant for more than six years; an affidavit dated January 3, 2004, from Mr. [REDACTED], who stated that he has known the applicant for more than six years; a copy of an envelope from Gigante Express; and copies of her applications for employment authorization and temporary protected status.

The first issue in this proceeding is whether the applicant has established her qualifying continuous residence and continuous physical presence in the United States. The letter dated January 4, 2004, from the Ventnor Diagnostic Center is not signed. In addition, the name of the center "Ventnor Daignostic Center," is misspelled on the letterhead. Also, the statements provided by the affiants regarding the applicant's claimed continuous residence and continuous physical presence in the United States are not supported by corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no corroborative evidence has been provided to cover the requisite time periods for Honduran TPS. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence. Also, the copy of the envelope from Gigante Express does not bear a postmark date. 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 TPS will be affirmed.

The second 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 was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The applicant claims on the Form I-821, Application for Temporary Protected Status, that she married [REDACTED] on May 12, 1996, in Porrerillos, Honduras. The applicant also submitted a copy of her marriage certificate along with her application for TPS. A review of the marriage certificate reflects that the applicant was married to [REDACTED] on May 12, 1996, in Porrerillos, Honduras. Further, the CIS computer systems reflect that [REDACTED] was granted temporary protected status on May 16, 2002. As such, the applicant has established that she has met one of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

However, in addition to meeting the criteria for late registration, the applicant must also establish her continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999, to the date of filing her application. As described above, she has not met the continuous residence and continuous physical presence eligibility requirements for TPS. Therefore, the director's decision to deny the application for TPS late registration 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.