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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **MAY 24 2005**  
[EAC 03 214 51298]

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, 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 determined that the applicant failed to establish she had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999. The director, therefore, denied the application.

On appeal, the applicant states that she has lived in the United States for over five years and that she submitted affidavits to support this claim because that is the only type of evidence she has.

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.

The term *continuously physically present*, as used in 8 C.F.R. § 244.1, means actual physical presence in the United States since January 5, 1999. Any departure, not authorized by CIS, including any brief, casual, and innocent departure, shall be deemed to break an alien's continuous physical presence.

The term *continuously resided* as used in 8 C.F.R. § 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998. 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 in the United States 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 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 record shows that the applicant filed her TPS application on July 8, 2003, as the child of a TPS eligible alien. On August 19, 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 submitted the following evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods:

1. An affidavit dated June 11, 2003, from [REDACTED] stating she has known the applicant since 1998.
2. An affidavit dated June 7, 2003, from [REDACTED] stating that she has known the applicant since July of 1998.
3. An affidavit dated June 5, 2003, from [REDACTED] stating that she and the applicant are friends and she has known the applicant since the summer of 1998.
4. An affidavit from [REDACTED] stating that she has known the applicant since June 1998.

The director determined that the applicant failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on November 20, 2003.

On appeal, the applicant states that she arrived in the United States more than five years ago and lived with her parents at the time. According to the applicant, all of the bills were in her father or mother's name and she had

only affidavits as evidence of her presence in the United States. The applicant also provides a statement from [REDACTED] who claims that the applicant's father worked for him since January 1999. [REDACTED] also states that the applicant occasionally accompanied her father to work. However, [REDACTED] can only attest to the father's presence in the United States since January 1999. Furthermore, [REDACTED] fails to indicate specific dates of the applicant's visits at her father's job. Therefore, the statement is of no probative value. The applicant has provided only four affidavits from acquaintances to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant claims to have lived in the United States since June 20, 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these rent receipts; however, no such evidence has been provided.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the requisite time periods. She has, thereby, failed to establish that she has met the criteria 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.

Beyond the director's decision, it is noted that the record contains a Form I-200, Warrant for Arrest of Alien dated October 25, 2001. It is also noted that the applicant has been convicted of one misdemeanor, however, this conviction does not render her ineligible or TPS under Section 244(c)(2)(B)(i) of the Act.

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.