

**PUBLIC COPY**

U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

MI



FILE: [REDACTED]  
[LIN 03 220 50776]

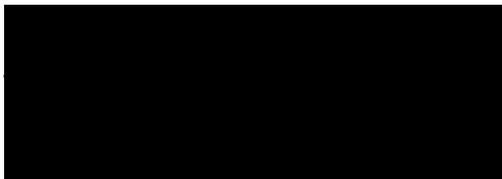
Office: Nebraska Service Center

Date: **NOV 03 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:



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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center (NSC), 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 for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant had failed to establish her eligibility for late TPS registration. The director also denied the application because the applicant failed to establish her date of entry to the United States, as well as her continuous residence and continuous physical presence in the United States during the requisite time periods.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

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 [LIN 99 135 50204] with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on April 2, 1999. On February 3, 2003, the director withdrew the approval of the applicant's TPS status because the applicant failed to re-register for TPS during a subsequent 12-month period. The applicant could have filed a motion within 30 days from the date of the director's notice to withdraw her TPS. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on July 3, 2003. The director denied this application [LIN 03 220 50776] on November 4, 2003, because the applicant failed to establish her eligibility for TPS late registration. The director also denied the application because the applicant failed to establish her date of entry to the United States, as well as her continuous residence and her continuous physical presence in the United States during the requisite time periods.

The applicant filed a subsequent Form I-821 on July 3, 2003. Since the applicant's TPS was withdrawn on February 3, 2003, the subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as a late registration.

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.

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 initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed the instant application with Citizenship and Immigration Services (CIS), on July 3, 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).

On September 11, 2003, 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 of her date of entry to the United States, her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. In response, the applicant submitted some evidence regarding her continuous residence and continuous physical presence in the United States. The director denied the application on November 4, 2003, because the applicant had failed to establish she was eligible for late registration. The director also denied the application because the applicant failed to establish her date of entry to the United States, as well as her continuous residence and continuous physical presence in the United States during the requisite time periods.

Counsel, on behalf of the applicant, filed an appeal which was received by the NSC on December 11, 2003. The appeal was untimely filed and therefore, was rejected by the director as improperly filed. The director treated the appeal as a motion to reopen, pursuant to 8 C.F.R. § 103.3(a)(1)(v)(B)(2), and rendered a decision on the merits of the case. After a complete review of the record of proceedings, including the motion, the director determined that the grounds of denial had not been overcome. The director, therefore, affirmed the previous decision and denied the application on February 4, 2004.

On March 5, 2004, counsel filed an appeal to the director's February 4, 2004 decision, which is now before the AAO. On appeal, counsel states that the applicant had submitted sufficient evidence to establish her date of entry to the United States, her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. Counsel further states that the applicant qualifies for TPS late registration because she is a national of Honduras, she is not inadmissible, and she meets the date of entry and presence requirements. Counsel did not provide any additional documentation on appeal; therefore, the record will be considered complete.

The first issue in this proceeding is whether the applicant has established her date of entry to 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.

A review of the record of proceedings contains hand-written receipts dated February 9, 1995, March 9, 1995, April 11, 1996, May 20, 1996, December 5, 1996, January 15, 1997, July 24, 1997, August 19, 1997, January 18, 1998, October 9, 1998, and November 12, 1998, as well as two receipts from RIA Telecommunications of Illinois, Inc. dated January 1, 1999 and February 12, 1999. The record also contains the following documentation: a copy of a payment authorization from Brandt Byrd dated March 21, 2000; a copy of a billing statement dated April 10, 2000, from Lake Forest Hospital; copies of her earnings statements from Flexicorps, Inc. dated January 5, 2001 and January 12, 2001; a copies of two letters dated October 22, 2002 and November 13, 2002, from American Service Insurance; a copy of a money transfer receipt from Ria, dated October 24, 2002; copies of her utility bills dated February 13, 2003 and March 13, 2003, from ComEd; a copy of her earnings statement from Complete Temporary Labor, Inc. dated April 28, 2003; a copy of a letter from the Social Security Administration dated November 27, 2000; and a copy of a letter from [REDACTED] dated March 3, 2001. The record also reflects that the applicant has established her date of entry to the United States, as well as her continuous residence and continuous physical presence in the United States during the qualifying periods. Therefore, the director's decision to deny the application based on this issue is withdrawn.

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

Counsel, on appeal, states the applicant is eligible for TPS late registration because she is a national of Honduras, she is not inadmissible, and that she meets the physical presence requirements for TPS.

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 at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. A review of the record of proceedings reflects that 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 conclusion that the applicant had failed to establish her eligibility 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.