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U.S. Citizenship
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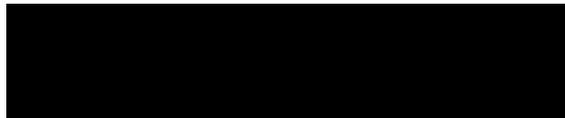
Office: TEXAS SERVICE CENTER

Date: OCT 03 2005

[SRC 00 266 56151]

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: 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, Texas Service Center (TSC) 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 applying for 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.

On appeal, the applicant states that in 1999, she withdrew her political asylum case upon the advice of counsel and filled out forms to file for TPS. The applicant further states that although she promptly filled out the required forms, her ex-attorney submitted them too late. The applicant explains that she has responded to all of the director's requests for documentation and asks that her case be reconsidered and approved. The applicant submits an affidavit dated October 24, 1999 from [REDACTED] a person who works for the applicant's former lawyer and a copy of a check payable to the Immigration and Naturalization, now Citizenship and Immigration Services (CIS), dated July 2, 1999.

Section 244(c) of the Act, and the related regulations at 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 of a 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 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.

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 shows that the applicant filed her application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 3, 2000.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 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).

On July 30, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her continuous residence and continuous physical presence in the United States. The applicant, in response, provided a letter from [REDACTED] the president and CEO of HPF's [REDACTED] in Kissimmee, Florida. Ms. [REDACTED] explains that on September 7, 1999, the applicant's attorney in Miami submitted a Form I-821, Application for Temporary Protected Status, in the applicant's behalf. She further explains that Ms. [REDACTED] had entered the United States with a valid visa and had a change of status to asylee status pending and notes that she has been issued a number of employment authorization cards.

The record shows that the applicant was scheduled for an interview concerning her asylum application on July 7, 1999. On July 6, 1999, through counsel, she withdrew her asylum application and requested that her interview be cancelled. The record contains a letter from the applicant's former attorney dated September 7, 1999 transmitting a Form I-821 to the director of the TSC. On appeal, the applicant submits an affidavit dated October 24, 1999 from [REDACTED] who indicates she is employed by the applicant's former attorney. Ms. [REDACTED] states that

on October 14, 1999, she received a package containing the applicant's I-821 from the TCS. She explains that she would have opened this mail on October 15, 1999 and learned that the application for late registration "must be received no later than October 20, 1999." She then indicates that because of Hurricane Irene, she did not open the package until October 21, 1999 thereby missing the October 20, 1999 deadline.

As stated above, the initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The applicant had filed an application for asylum that she withdrew on July 6, 1999. She could have filed an application for late registration with the TSC director had she done so within a 60-day period immediately following her termination of her asylum application which would have been on or before September 6, 1999. The applicant filed her first application to register for TPS on March 7, 2000. Therefore, she did not satisfy the conditions described in paragraph (f)(2) of this section. The applicant submitted evidence in an attempt to establish her continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is 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.