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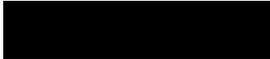
U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

AUG 03 2006

[WAC 05 104 80675]

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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Vermont Service Center (VSC) on July 7, 2003, after the initial registration period had ended (EAC 03 212 54517 relates). On May 14, 2004, that application was denied because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant filed this Form I-821 on January 12, 2005, and indicated that she was re-registering for TPS or renewing temporary treatment benefits. The director of the CSC denied the application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal. The applicant filed her appeal of that decision on August 25, 2005.

If the applicant is filing an application for re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17. If the applicant is applying to renew her temporary treatment benefits, she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS and she no longer has a pending application. Therefore, she is not eligible to re-register for TPS or to renew her temporary treatment benefits. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file an application for late initial registration for TPS instead of an application for annual re-registration.

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.

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. As previously discussed, the applicant filed her current application with Citizenship and Immigration Services (CIS) on January 12, 2005.

To qualify for late registration, the 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 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 applicant claims to have entered the United States on January 4, 1999, **after** the date (December 30, 1998) required to establish qualifying continuous residence in the United States.

Furthermore, a review of the alien registration file relating to the applicant's mother, [REDACTED] reveals that the mother filed an initial TPS application on January 21, 1999. At that time, the mother listed only two children on her Form I-821, [REDACTED] who were living with her in the United States. The mother's TPS application was approved on August 13, 1999. The mother did not list the applicant as her daughter, living with her in the United States, until filing an application for re-registration or renewal of temporary treatment benefits on May 31, 2002. A review of the alien registration file relating to the applicant's father, [REDACTED] reveals that he also filed an initial TPS application on January 21, 1999. It was not until filing an application for re-registration or renewal of temporary treatment benefits on May 30, 2002, that the father listed the applicant as one of his children living in the United States.

While the applicant claims to have entered the United States on January 4, 1999, the parents did not list her as their daughter, present in the United States, at the time of filing their initial TPS applications. These discrepancies regarding the applicant's date of entry have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Furthermore, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any 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. (Comm. 1988).

Service regulations allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period. Section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." The evidence of record reveals that the applicant (who was born on January 15, 1983) was under the age of twenty-one years of age at the time she filed her first application on July 2, 2003. At that time, her mother was an alien currently eligible to be a TPS registrant. Therefore, at the time of filing her first Form I-821, the applicant qualified for late registration. However, the late registration provisions do not relax the other requirements for TPS eligibility. The director did not deny the applicant's first TPS application because the applicant was not eligible for late registration; rather, the director denied the application because the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

With regard to the current application, the applicant no longer qualifies as a "child" as defined for immigration purposes, and is no longer eligible for late registration under 8 C.F.R. § 244.2(f)(2). The applicant also claims that she did not enter the United States until January 4, 1999; therefore, she is unable to establish that she satisfies the continuous residence requirements described in 8 C.F.R. § 244.2(b). Based on the discrepancies noted, the applicant has also failed to satisfactorily establish that she has been continuously physically present in the United States since January 5, 1999. Consequently, the application must also be denied for these reasons.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.