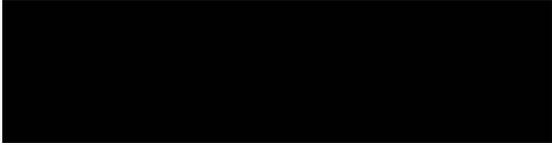


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invasion of personal privacy**



**U.S. Citizenship
and Immigration
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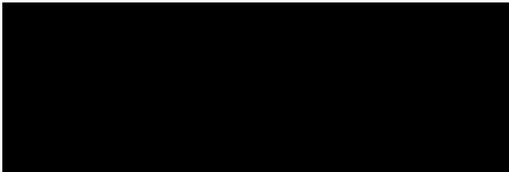
Office: CALIFORNIA SERVICE CENTER

Date: DEC 06 2006

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant claims to be 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 her initial TPS application on June 17, 2002, under CIS receipt number SRC 02 203 54791. The Director, Texas Service Center (TSC), approved that application on April 14, 2003.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on December 17, 2004, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States. The director noted in his decision to deny the application that the applicant was apprehended by the Border Patrol while attempting to enter the United States illegally from Mexico on February 15, 2002.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2007, upon the applicant's re-registration during the requisite time 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).

On appeal, counsel, on behalf of the applicant, asserts that a brief and casual absence from the United States does not prevent the applicant from establishing continuous residence and continuous physical presence.

A review of the record of proceedings reflects that the applicant has not provided any evidence to establish 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's argument that the applicant made a brief and casual absence from the United States is not supported by the record.

In addition, the record reveals that the applicant was apprehended by the Border Patrol near Eagle Pass, Texas while attempting to enter the United States illegally on February 15, 2002. The record also reveals that the applicant had left Honduras on January 27, 2002, along with her brother, and traveled through Guatemala, en route to Mexico. In addition, the file reflects that the applicant's mother stated that she paid \$3,500 to smuggle the applicant and her brother into the United States from Mexico. Therefore, the applicant could not have established her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. 8 C.F.R. § 244.2(b) and (c). Therefore, the director's decision to deny the application will be affirmed.

Further, the applicant's TPS status was withdrawn by the director on January 9, 2006, because the applicant did not establish her qualifying continuous residence and continuous physical presence in the United States.

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.