



U.S. Citizenship
and Immigration
Services

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FILE:

[EAC 03 192 51862]

OFFICE: VERMONT SERVICE CENTER

DATE: DEC 11 2006

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, Chief
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 denied the application because the applicant failed to establish she was eligible for late initial registration.

On appeal, the applicant submits a statement and additional evidence.

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 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 continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Salvadorans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS) on June 9, 2003.

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.

The burden of proof is upon the applicant to establish that 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 3, 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 establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided evidence that her mother, [REDACTED] has been granted lawful permanent residence under CIS registration number [REDACTED] as the spouse of a United States citizen.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on July 12, 2004.

On appeal, the applicant asserts that she is eligible for TPS as the daughter of an alien who is currently eligible to be a TPS registrant. The applicant submits another copy of her mother's lawful permanent resident card.

The applicant does not qualify for late initial registration because her mother has been granted lawful permanent residence. [REDACTED] is not a TPS registrant. It is noted that the applicant's stepfather, [REDACTED] a United States citizen, filed an immigrant visa petition on the applicant's behalf on June 11, 1997. The application was denied on September 3, 1997, because the applicant did not qualify as the stepchild of a United States citizen. The applicant cannot qualify for late initial registration on the basis of this petition. It was denied prior to the initial registration period for Hondurans. Even if the petition has been pending during the initial registration period for Honduras, the applicant cannot qualify for late initial registration based on a pending immigrant visa petition.

It is further noted that the applicant is currently the beneficiary of an approved immigrant visa petition filed on her behalf by her mother, [REDACTED] as the daughter of a lawful permanent resident; however, the fact that the applicant is the beneficiary of an approved immigrant visa petition does not qualify her for late initial registration. The applicant, during the initial registration period for Hondurans, did not have an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal that was pending or subject to further review or appeal. The applicant has not submitted sufficient 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 decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, the applicant indicated on her TPS application that she entered the United States on February 13, 1999. Therefore, she cannot establish continuous residence in the United States since December 30, 1998, or continuous physical presence in the United States since January 5, 1999, as set forth at 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must 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 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.