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[REDACTED]

FILE:

[REDACTED]  
[EAC 03 240 50544]

OFFICE: VERMONT SERVICE CENTER

DATE: FEB 09 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:

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, 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 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 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 reveals that the applicant filed her initial application with Citizenship and Immigration Services (CIS) on August 21, 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 March 5, 2004, 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 in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. The applicant stated that she submitted her first application for TPS to the Vermont Service Center, but never received any correspondence from CIS. The applicant claims that she submitted a second TPS application on May 25, 2000. The applicant states that she was requested to submit additional evidence to establish her qualifying continuous residence and continuous physical presence in the United States, which she submitted. The applicant submitted the following:

1. a photocopy of a United States Postal Service (USPS) receipt for certified mail indicating that mail was received at the Vermont Service Center on August 10, 1999;
2. a mailing envelope addressed to the Vermont Service Center from the applicant postmarked May 27, 2000, along with a Vermont Service Center receipt stamp dated May 30, 2000;
3. a photocopy of the first page of a Form I-821, Application for Temporary Protected Status and a photocopy of a Form I-765, Application for Employment Authorization, that appears to have been signed by the applicant on May 25, 2000 bearing a Vermont Service Center receipt stamp dated May 30, 2000;

4. a photocopy of a USPS Customer's Receipt and a USPS Express Mail Customer Copy, both dated July 20, 2003; and,
5. a photocopy of a USPS Form 3811, Domestic Return Receipt, indicating that mail was received at the Vermont Service Center on May 30, 2000;

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on June 16, 2004. The director noted in the denial decision that the applicant submitted evidence establishing that she had submitted a TPS application to the Vermont Service Center in May 2000, but the application was rejected and returned to the applicant.

On appeal, the applicant repeats her assertion that she filed an application on May 30, 2000, which was accepted as properly filed, and that she submitted additional evidence of residence and physical presence in the United States in response to a request for additional evidence. The applicant submits the same evidence previously submitted in response to the Notice of Intent to Deny.

The applicant's claim that she filed an application on May 30, 2000, which was accepted as properly filed is not supported by the evidence of record. As stated by the director, the evidence of record indicates that the applicant mailed a TPS application package to the Vermont Service Center, but it was rejected and returned to her. The applicant has not submitted a photocopy of a CIS notice acknowledging receipt of a Form I-821 on May 30, 2000, nor has the applicant provided a photocopy of the request for evidence to which the applicant claims to have responded.

There is no indication in CIS computer records that the applicant properly filed a TPS application with correct fee on or around May 30, 2000. The current TPS application, filed by the applicant on August 21, 2003, is the only TPS application reflected in CIS computer records. Therefore, the applicant's claim that she properly filed a prior application with correct fee on May 30, 2000, cannot be accepted. Furthermore, even if the applicant had filed such an application, it still would have been filed after the expiration of the initial registration period for Hondurans. As previously stated, the initial registration period for Hondurans expired on August 20, 1999.

The applicant has submitted evidence in an attempt to establish her qualifying continuous residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821, 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 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that the applicant was apprehended by the United States Border Patrol near Brownsville, Texas, on December 16, 1997, and placed in deportation proceedings. On June 10, 1998, an Immigration Judge in Harlingen, Texas, ordered the applicant deported to Honduras in absentia. On June 10, 1998, the District Director, Harlingen, Texas, issued a Form I-205, Warrant of Removal/Deportation. To date, the warrant remains outstanding.

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.