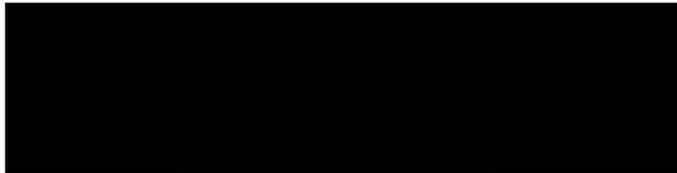




U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



MI

FILE:



[SRC 03 016 54819]

OFFICE: VERMONT SERVICE CENTER

DATE: JUN 26 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 Vermont Service Center. Any further inquiry must be made to that office.

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

for 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 had failed to establish that she: (1) was eligible for late registration; (2) had continuously resided in the United States since December 30, 1998; and (3) had been continuously physically present from January 5, 1999, to the date of filing the application.

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 alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 condition described in paragraph (f)(2) of this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within 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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. 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 initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record shows that the applicant filed her initial TPS application on September 13, 2002.

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 Citizenship and Immigration Services (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).

In a notice of intent to deny dated September 28, 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 failed to respond; therefore, the director denied the application on February 15, 2005.

On appeal, the applicant asserts that she has been physically present in the United States since September 20, 1998, and submits evidence in an attempt to establish her qualifying residence and 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 neither addressed nor 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 on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established continuous residence in the United States since December 30, 1998, and continuous physical presence from January 5, 1999, to the date of filing the application.

In a notice of intent to deny dated September 28, 2004, the applicant was requested to submit additional evidence to establish continuous residence in the United States since December 30, 1998, and continuous physical presence from January 5, 1999, to the date of filing the application. The applicant failed to respond; therefore, the director denied the application on February 15, 2005.

On appeal, the applicant asserts that she has been physically present in the United States since September 20, 1998, and submits the following:

1. A copy of a receipt from T.C.C.A., Hempstead, New York, for a package allegedly sent to Honduras on November 22, 1998.
2. A copy of a pay statement from The Olive Garden for the pay period from February 22, 1999 to February 28, 1999.
3. A copy of a bill from Nassau Health Care Corporation, Garden City, New York, dated July 27, 1999.
4. Copies of bills for overdue accounts from Nassau University Med Ctr-ER, dated April 5, 2000 and February 27, 2001.
5. Confirmation from Western Union for money transfers made on December 21, 2000; August 27, 2001; and March 12, 2002.
6. Copies of additional documents dated subsequent to the filing of the TPS application on September 13, 2002.

The receipt (No. 1 above) contains inadequate information and there also is no evidence that the package was in fact sent by the applicant on the date of the receipt, as the receipt contains neither a stamp, a signature, nor a certification affixed by the transportation company. The one pay statement from The Olive Garden (No. 2 above) cannot be considered credible as the applicant's name was typed in a different font than that of the surrounding text; nor did the applicant submit a letter from her employer as corroborating evidence of her employment at this company. It also should be noted that the applicant indicated on her initial TPS application that her daughter [REDACTED] was born in Honduras on April 24, 1998, five months prior to her claimed entry into the United States. Additionally, it is noted that the applicant furnished a copy of her identification card issued in Honduras on October 23, 2000.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The applicant has failed to establish that she has met the criteria for continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will also be affirmed.

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.