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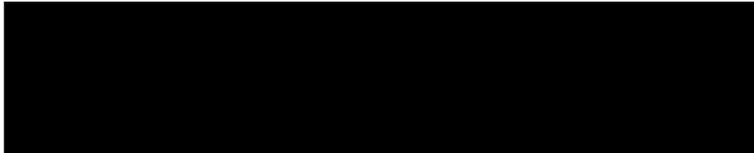
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FILE: [REDACTED]  
[WAC 03 106 53809]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: **MAY 25 2006**

IN RE: Applicant:

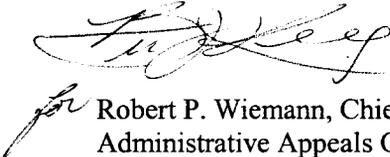


APPLICATION: Application for Temporary Protected Status under Section 244 of the  
Immigration and Nationality Act, 8 U.S.C. § 1254

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.

  
for 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 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 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 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 TPS application on February 18, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed 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 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 12, 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). She was also requested to submit the final court dispositions of her arrests listed in the Federal Bureau of Investigation (FBI) fingerprint results report. The applicant, in response, provided court documents relating to her arrests. She indicated that the attorney handling her case was presently out of town and needed additional time to work on her case. Because no additional evidence was subsequently provided, the director denied the application on December 4, 2003.

On appeal, the applicant asserts that she is the spouse of a person who has political asylum in the United States. She further asserts that she filed late because she relied on other persons for the preparation of her paperwork whom she paid in cash, and that she has no proof she filed timely.

However, CIS is not responsible for the inaction of the applicant's representative. Additionally, while CIS records indicate that the applicant's spouse, [REDACTED] (a Guatemalan national), has a pending Form I-589, Request for Asylum in the United States, the record fails to indicate that the applicant was included in [REDACTED]'s asylum application as his dependent. Additionally, it is noted that the qualifying relationship did not exist during the initial registration period for Hondurans, as the applicant was not married to Mr. [REDACTED] until December 30, 2000. 8 C.F.R. § 244.2(f)(2).

The applicant has failed 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 temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the director failed to address the court documents provided by the applicant in response to the director's September 12, 2003, notice of intent to deny.

An alien shall not be eligible for temporary protected status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

The record reveals the following offenses:

- (1) The FBI report shows that on February 10, 1999, in West Covina, California, the applicant was arrested for petty theft. On February 26, 1999, in the Municipal Court of Citrus Judicial District, County of Los Angeles, California, [REDACTED] the applicant (name used: [REDACTED]) was indicted for theft of property, 484(a) PC, a misdemeanor. The applicant failed to appear for her arraignment on March 25, 1999; therefore, a bench warrant was issued. The applicant failed to submit documentation from the court to show the outcome of this case or whether this case remains pending.
- (2) The FBI report shows that on April 20, 1999, in Redondo Beach, California, the applicant was arrested for shoplifting. On April 28, 1999, in the Municipal Court of South Bay Judicial District, County of Los Angeles, California, [REDACTED] the applicant (name used: [REDACTED]) was indicted for Count 1, theft of property, 484(a) PC, a misdemeanor; and Count 2, falsely represent self to an officer, 148.9(a) PC, a misdemeanor. The applicant failed to appear for her arraignment on May 24, 1999; therefore, a bench warrant was issued. The applicant failed to submit documentation from the court to show the outcome of this case or whether this case remains pending.
- (3) On May 23, 2000, in the Municipal Court of L.A.-Van Nuys Judicial District, County of Los Angeles, California, [REDACTED] (arrest date May 12, 2000), the applicant (name used: [REDACTED]) was indicted for Count 1, theft of property, 484(a) PC, a misdemeanor; and Count 2, falsely represent self to an officer, 148.9(a) PC, a misdemeanor. On August 30, 2000, the court ordered the complaint amended by interlineation to add violation of trespass: injure property, 602(j) PC, a misdemeanor, as Count 3. The applicant was subsequently convicted of Count 3. She was placed on probation for a period of 24 months, ordered to spend one day in jail, and pay a total of \$810 in fines and costs. Counts 1 and 2 were dismissed.

The applicant has failed to provide a complete final court disposition of her arrest, detailed in Nos. 1 and 2 above. The applicant is also ineligible for TPS because of her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(a). Therefore, the application also must be denied for this reason.

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.