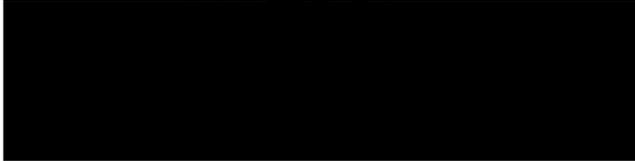


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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: NOV 02 2006

[consolidated therein]

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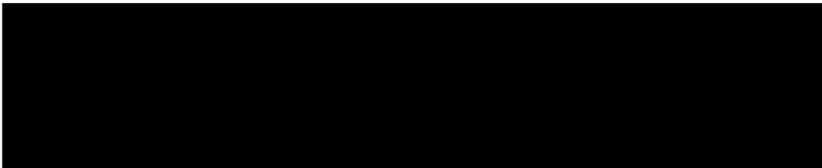
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 is stated to be 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, through counsel, states that she is eligible for late registration because her Employment Authorization Document (EAD) expired on February 12, 2005 and she had 60 days from the expiration of her EAD to apply for late registration TPS. However, an expiring EAD is not one of the conditions listed for late registration. The fact that the applicant was issued EAD's does not make the applicant eligible for late registration. Based upon the filing of the Form I-821, Application for Temporary Protected Status, the applicant was afforded temporary treatment benefits and was issued EAD's upon establishing *prima facie* eligibility for TPS, pursuant to 8 C.F.R. § 244.5(b). As provided in 8 C.F.R. § 244.13(a), temporary treatment benefits terminate upon a final determination with respect to the alien's eligibility for TPS.

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 Honduras 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 Hondurans was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on May 31, 2005.

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 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 February 5, 2006, 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 continuous physical presence in the United States from January 5, 1999, evidence establishing her continuous residence in the United States from December 30, 1998, evidence establishing her date of entry into the United States, evidence establishing her nationality and identity, and a photo. The applicant provided various documents in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite time periods.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on April 11, 2006. On appeal, 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite period. Therefore, the application will also be denied for these reasons.

It is noted that the applicant filed an initial TPS application on July 14, 1999, under receipt number EAC 99 209 52829. The Vermont Service Center director denied the application on September 14, 2001, after determining that the applicant had abandoned her application by failing to respond to a request for evidence and failing to be fingerprinted. There is no appeal from a denial due to abandonment; however, the applicant could have filed a motion to reopen within 30 days of the date of the denial notice. 8 C.F.R. § 103.2(b)(15). The record does not reflect that the applicant filed a motion within the allotted timeframe.

It is noted that the applicant was ordered deported to Honduras by an Immigration Judge on May 19, 1987; and a Warrant of Deportation was issued on October 19, 1987. The applicant did not appear for her enforced departure on November 19, 1987.

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.