

identifying data deleted to  
prevent disclosure of unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

M 1



FILE:



Office: Nebraska Service Center

Date:

SEP 01 2006

[LIN 01 205 53323]

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, reopened, and denied again by the Director, Nebraska Service Center (NSC), and is now before the Administrative Appeals Office 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 her eligibility for TPS late registration. The director also denied the application because the applicant failed to establish her qualifying continuous residence in the United States during the requisite period.

On appeal, the applicant asserts her eligibility for TPS and submits additional evidence in support of her claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 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.

The phrase *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.

The phrase *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.

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 period. 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 the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on May 2, 2001.

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).

On September 11, 2001, the applicant was requested to submit evidence to establish her eligibility for TPS late registration. The applicant was also requested to submit evidence establishing her "residence in the United States to December 30, 1998," and her continuous physical presence in the United States since January 5, 1999. In addition, the applicant was requested to submit a copy of her current photo identification. The applicant, in response, submitted a copy of photo identification and some evidence in an attempt to establish her residence and continuous physical presence in the United States during the requisite time periods. The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS late registration, and her continuous residence in the United States since December 30, 1998. The director, therefore, denied the application on November 13, 2001.

The applicant filed an appeal which was received by the NSC on August 16, 2004, over three years after the denial of her application. The director treated the appeal as a motion to reopen, pursuant to 8 C.F.R. § 103.3(a)(1)(v)(B)(2), and rendered a decision on the merits of the case. After a complete review of the record of proceedings, including the motion, the director determined that the grounds of denial had not been overcome. The director, therefore, reaffirmed his previous decision and denied the application on October 26, 2004.

On November 24, 2004, the applicant filed an appeal to the director's October 26, 2004 decision, which is now before the AAO.

On appeal, the applicant states that she does not agree with the director's decision to deny her TPS application. The applicant, along with her appeal, submits the following documentation: an affidavit dated November 21, 2004, from [REDACTED] who stated that he has known the applicant since December 27, 1998; and a letter dated November 9, 2004, from [REDACTED] who stated that the applicant arrived the United States during the holiday season in 1998, and he became aware of the applicant's presence on December 27 or December 28, 1998.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. 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. A review of the record of proceedings reflects that 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 late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, to the date of filing her application.

The statements from [REDACTED] regarding the applicant's claimed continuous residence in the United States are not supported by credible corroborative evidence during the beginning of the requisite time period. Affidavits from acquaintances are not, by themselves, persuasive evidence of continuous residence or physical presence in the United States. It is also noted that the applicant claimed to have entered the United States in September 1998. However, [REDACTED] states that the applicant arrived during the "Christmas/New Year holiday season in 1998"; thus, questioning the credibility of the statements provided by [REDACTED]. In addition, the record contains a single generic hand-written rent receipt reflecting a period of December 23, 1998 to January 23, 1999. This rent receipt is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying continuous residence or physical presence in the United States. The applicant claims to have lived in the United States since September 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the

documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence requirements described in 8 C.F.R. §§ 244.2(c). Consequently, the director's decision to deny the application for temporary protected status on this ground will also be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish her qualifying continuous physical presence during the requisite time period. 8 C.F.R. § 244.2(b). Therefore, the application will also be denied for this reason.

Although not addressed by the director, the record of proceedings contains the Federal Bureau of Investigation report reflecting that the applicant was arrested for "Forgery 25 F" on May 27, 2000, by the Sheriff's Office in Carthage, Missouri. CIS must address this arrest and/or conviction(s) in any future decisions or proceedings.

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.