



U.S. Citizenship
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Services

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FILE: [REDACTED]
[SRC 99 261 50348]

Office: TEXAS SERVICE CENTER Date: **SEP 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 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, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily 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 found that the applicant had not established that she had continuously resided in this country since December 30, 1998.

On appeal, the applicant resubmits copies of documents that had been previously been forwarded (also as copies) for consideration. The applicant states that she is an honest person, that no fraud was ever intended and requests an opportunity to provide any other information needed in order to process her case.

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.

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 in the United States 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 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).

Upon initial submission, the application provided the following documentation:

1. A copy of the applicant's Form I-766, Employment Authorization Card, valid from October 17, 2002 until its expiration date of July 5, 2003.
2. A copy of the applicant's Honduran Identity Certificate issued on August 19, 1999 in Houston, Texas.
3. An affidavit dated August 18, 1999 from [REDACTED] who states that the applicant worked with her from October 15, 1997 until the present time.
4. An affidavit dated August 18, 1999 [REDACTED] who states that he has known the applicant from November 15, 1997 until the present time.

On February 6, 2002 and again on July 3, 2003, the applicant was informed that the documentation that she had submitted was not sufficient to warrant favorable consideration of her application. She was requested to submit information showing that she had resided in the United States since December 30, 1998. The applicant, in response, provided the following additional documentation:

5. A copy of a contract for publications purchased dated August 15, 1998 from Home Health Education Service in Burleson, Texas.
6. Copies of three Western Union money orders showing the applicant transmitting funds to Honduras on May 4, 1998, June 14, 1998, and on June 29, 1998.
7. A copy of the applicant's lease dated July 2, 1998 for her apartment in Houston, Texas

The director noted that the receipts from Western Union (Item #6 above) appeared to have had the dates changed from 1999 to 1998. The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on September 7, 2004.

On appeal, the applicant submits a copy of an additional Western Union money order dated September 29, 1998, (that appears to be altered), and resubmits copies of the June 14, 1998 and the June 29, 1998 Western Union money orders listed at Item #6 above. She also resubmits a copy of her lease dated July 2, 1998 listed as Item # 7 above. It is noted that the Western Union money order submitted on appeal dated September 29, 1998, shows a different home address from the apartment lease (Item #7 above), although the lease shows that she rented the unit from July 2, 1998, through June 30, 1999. This discrepancy casts additional doubt on the copies of the Western Union submitted by the applicant and the copy of the lease agreement forwarded for consideration. 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Affidavits from acquaintances are not, by themselves, persuasive evidence of continuous residence or continuous physical presence.

The applicant has not submitted evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the period from December 30, 1998 to August 23, 1999, the date her application was filed. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c) (*supra*). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, it is noted that the applicant filed her TPS application on August 23, 1999, after the initial registration period for Hondurans (from January 5, 1999 to August 20, 1999) had closed. There is no evidence in the record that the applicant fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

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.