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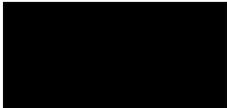
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

**AUG 20 2007**

*consolidated therein*

[EAC 03 212 52970]

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, 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 determined that the applicant failed to establish she had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999. The director, therefore, denied the application.

On appeal, the applicant states that she has already provided all of the evidence she has. The applicant also submits additional evidence, and resubmits evidence previously provided, in an attempt to establish continuous residence and physical presence in the United States during the qualifying period.

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 as 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 section 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 conditions described in paragraph (f)(2) of this section.

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.

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.

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 January 5, 2009, 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).

The record shows that the applicant filed her TPS application on July 7, 2003. On September 22, 2003, the applicant was provided the opportunity 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 residence in the United States since December 30, 1998, and her continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in response, provided a copy of a marriage certificate and other evidence, which indicates the applicant was married to a TPS-eligible alien and therefore was eligible for late initial registration. The applicant also submitted the following documentation:

1. A personal statement and a copy of her Honduran passport.
2. Copies of hand-written generic rent receipts dated October 1, 1999, November 1, 1999, and December 1, 1999.
3. Copies of 1999 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statements.
4. A copy of a Fleet Bank Relationship Summary dated October 6, 2003; a Fleet

Statement of Accounts dated September 30, 2003; and, a letter from Fleet dated October 6, 2003.

5. A copy of a Medicaid Eligibility Identification Card valid from June 25, 2000 to September 30, 2000, a copy of a Middlesex County Board of Social Services Notification of Eligibility for the New Jersey Care Program, dated August 9, 2000; and a copy of a Sworn Statement in Proof of Loss issued December 21, 2002.
6. A copy of a U.S. Department of Housing and Urban Development Settlement Statement with a settlement date of December 26, 2001.
7. A copy of a Wells Fargo Monthly Mortgage Statement dated November 13, 2002.

The director concluded that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant furnished a copy of an approval letter from the Social Security Administration dated December 9, 2003.

The applicant's statement is discussed above. One of the rent receipts indicates a date of October 1, 1999, and is the earliest date presented, on appeal, as evidence of the applicant's presence in the United States.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the period from December 30, 1998 and January 30, 1998. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

Beyond the director's decision, it is noted that the record of proceeding reflects that on January 16, 2001, an immigration judge ordered the applicant removed from the United States to Honduras. A Warrant of Removal/Deportation, Form I-205, was issued on January 16, 2001. The applicant failed to appear at the Newark district office on February 16, 2001, for her enforced departure.

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.