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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 07 2007
[WAC 05 188 70766]

IN RE: Applicant: [REDACTED]

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 Director, California Service Center (CSC), denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who seeks 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. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States. Finally, the director found that the applicant did not establish her nationality and identity.

On appeal, the applicant asserts that she has lived in the United States from 1998 to the present and that she has responded to all of the director's requests for supporting documents.

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 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.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. 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 time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on 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 reflects that the applicant filed her initial TPS application on April 6, 2005 – almost six years after the close of the initial registration period for Hondurans. The applicant indicated on her application that she entered the United States, without inspection, through Phoenix, Arizona, on July 10, 1998. In support of her application, the applicant submitted her birth certificate, with translation, and, a copy of the identification page of her Honduran passport.

On September 18, 2006, the director denied the application, finding that the applicant had failed to establish her qualifying continuous residence and continuous physical presence; that she had failed to submit adequate evidence to show that she was eligible for TPS under the late registration provisions; and, that she had failed to establish her identity and nationality.

On appeal, the applicant submits photocopies of various remittance receipts; several envelopes addressed to her; and, several retail purchase receipts.

All of the documents submitted relate to the applicant's continuous residence and physical presence. The applicant did not submit any evidence to establish that she was eligible for late registration. None of the documentation overcomes the applicant's failure to file her TPS application within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). The director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

Furthermore, the evidence submitted by the applicant fails to establish her qualifying residence and continuous physical presence as it contradicts CIS records. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant claims to have lived in the United States since July 10, 1998. To support this assertion, she submits various receipts and envelopes dated from 1998 to 2005. The fingerprint results obtained in relation to the applicant's TPS application reflect that she entered the United States, without inspection, near Rio Grand City, Texas, on or about November 9, 2002, and was apprehended by the U.S. Customs and Border Protection Border Patrol. The applicant has failed to address the inconsistency relating to her date of entry or to submit any objective evidence to explain or justify the inconsistency. The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence and continuous physical presence in the United States. 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 on these grounds will be affirmed.

The record reflects that when the Border Patrol apprehended the applicant, she claimed to be a citizen of Guatemala. There is no documentation in the record to corroborate this assertion. Instead, the record contains a copy of the identification page of her Honduran passport, issued on April 30, 2004, by the Honduran Consulate in Miami, Florida. The applicant also submitted a copy of her Honduran birth certificate. Although these two documents contradict what she told the Border Patrol, they do establish that she is citizen of Honduras. The director's decision to deny the application on this additional basis is withdrawn.

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.