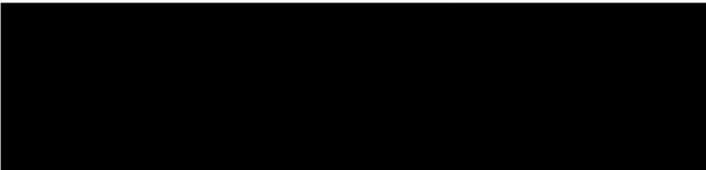




U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[LIN 02 251 51908]

Office: NEBRASKA SERVICE CENTER

Date: DEC 27 2007

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.

*John H. Vaughan*  
*for*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center (NSC), and 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 is applying for 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 denied the application because the applicant failed to establish her qualifying continuous residence and her continuous physical presence in the United States.

On appeal, the applicant's mother asserts that her daughter is eligible for TPS and submits additional documentation.

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, 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 in the United States since January 5, 1999.

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 reveals that the applicant filed an initial TPS application [LIN 01 266 52434] with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 5, 2001. That application was denied by the NSC director on January 28, 2002, because the applicant failed to establish her eligibility for TPS late registration. The applicant did not file an appeal.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on July 29, 2002. The director denied this application on April 14, 2003, because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States. The director also determined that the applicant failed to establish her eligibility for TPS late registration.

On appeal, the applicant's mother, [REDACTED] states her daughter arrived in the United States on June 18, 1999, near Brownsville, Texas, and that she had previously provided documentation to substantiate her daughter's residence in the United States since 1999.

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

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed this TPS application on July 29, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. 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 late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant provides copies of documents which all post-date the requisite time periods for continuous residence and continuous physical presence in the United States. Furthermore, a review of the record shows that the applicant, along with her mother and sister, was apprehended by the United States Border Patrol near Brownsville, Texas, on June 18, 1999, while attempting to enter the United States illegally. The record also shows that the applicant had left Honduras on June 4, 1999, entered Guatemala on June 5, 1999, and entered Mexico on June 6, 1999. The applicant had provided a copy of her Honduran passport which was issued to her in Honduras on June 1, 1999. Thus, the record clearly shows that the applicant has not been continuously resident in the United States since December 30, 1998, and continuously physically present in the United States since January 5, 1999, as required for Honduran nationals under 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 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.