

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



M

JUL 13 2007

FILE: [REDACTED]
[WAC 05 106 72243]

OFFICE: California Service Center

DATE:

IN RE: Applicant:

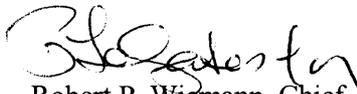


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a 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 on the ground that the applicant failed to provide evidence of her nationality/identity; that she had continuously resided in the United States since December 30, 1998 and been continuously physically present in the country since January 5, 1999; and that she was eligible for late registration and filed a timely late registration application.

On appeal the applicant states that she did not receive a previously issued request for evidence, and submits additional documentation in support of her application.

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.

- (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.

Honduran nationals applying for TPS 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 July 5, 2007, upon the applicant's re-registration during the requisite time 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 CIS. *See* 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. *See* 8 C.F.R. § 244.9(b).

The applicant was born in Honduras on December 29, 1986 and claims to have entered the United States without inspection with her mother on June 1, 1996. She filed her initial Form I-821, Application for Temporary Protected Status, on January 14, 2005. After the applicant failed to respond to a request for evidence issued on February 27, 2006, the director denied the application on May 12, 2006, on the grounds that the applicant had failed to establish her nationality/identity; that she met the requirements of continuous residency and physical presence in the United States applicable for TPS applicants from Honduras; and that she was eligible for late registration and filed a TPS application within 60 days of the end of her qualifying condition.

Upon review of the entire record, including Citizenship and Immigration Services (CIS) records pertaining to the applicant's parents, the AAO will affirm the director's denial of the application.

The record includes photocopies of the applicant's Honduran birth certificate and a Honduran passport with photo identification issued to the applicant in New York on July 12, 2000. The birth certificate identifies the applicant's mother as [REDACTED] and her father as [REDACTED]. CIS records show that [REDACTED] and [REDACTED] filed TPS applications in June 1999, during the initial registration period for Honduran nationals, that they were granted TPS in May and June, 2000, respectively, and that they have regularly extended their TPS thereafter up to 2007. Based on the foregoing evidence, the AAO concludes that the applicant has established her identity and Honduran nationality, in accordance with 8 C.F.R. § 244.2(a), and that she meets the late registration eligibility requirement

of 8 C.F.R. § 244.2(f)(2)(iv) as the “child of an alien currently eligible to be a TPS registrant.” Thus, the applicant has overcome those grounds for denial.

However, the evidence of record does not establish that the applicant has been continuously physically present in the United States since January 5, 1999, and a continuous resident of the United States since December 30, 1998, as required for Honduran nationals under 8 C.F.R. § 244.2(b) and (c). The documentation submitted by the applicant with her Form I-821 in January 2005 and on appeal in June 2006 includes the following pertinent items: a letter from the principal of ██████████ High School in Philadelphia, Pennsylvania, confirming that the applicant attended the school from September 2001 to June 2004; photocopies of the applicant’s high school diploma, dated June 11, 2004, and a record of her high school courses and grades; medical records relating to the applicant during the time period of May 30, 2001 to July 12, 2004; a letter dated May 24, 2006 from the principal of the ██████████ School in Philadelphia, confirming that the applicant attended that school from March 2000 until her graduation in June 2000; letters dated in December 2004 from two social workers at Catholic Social Services and the Health Promotion Council of Southeastern Pennsylvania, both located in Philadelphia, stating that the applicant’s mother came to them for assistance in 1997 and was accompanied by her daughter, the applicant; a letter from The Cittone Institute, dated May 25, 2006, confirming that the applicant was a student in the medical assistant program, running from January 19, 2006 to October 5, 2006; copies of two photographs which the applicant identifies as her 13th birthday party at home in Philadelphia on December 29, 1999, and at Times Square in New York with her parents in September 2000; a letter from a former landlord who states that the applicant and her parents were tenants of his in 1997; and a series of letters from acquaintances in the United States, in May and June 2006, who state that they have known the applicant and her parents since 1998-2000.

The only evidence of the applicant’s presence and residence in the United States prior to 2000 (aside from the unverified photograph reputedly taken in December 1999) are the above-mentioned letters from various individuals who state that they have known the applicant since 1997 or 1998. Letters from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. If the applicant has lived in the United States since June 1996, as she claims, it is reasonable to expect that she would have some contemporaneous documentation from the late 1990s, like the school and medical records she submitted for the years 2000 to 2006. What documentation there is from the late 1990s, however, refutes the applicant’s claim to have been in the United States at that time. For example, a residential lease agreement for an apartment in Philadelphia from December 1, 1997 to November 30, 1998, identifies the applicant’s parents (in the space where they were specifically directed to list all tenants) as the only two tenants. Furthermore, in the initial TPS applications they filed in June 1999, both of the applicant’s parents identified their daughter’s place of residence as Honduras. Not until they filed the first of their re-registration applications in the summer of 2000 did the applicant’s parents state that their daughter resided with them in the United States.

It is incumbent upon a petitioner to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). Moreover, doubt cast on any aspect of the petitioner’s evidence reflects on the reliability of the petitioner’s remaining evidence. *See id.*

The AAO determines that the applicant has failed to submit sufficient documentary evidence that she has been continuously physically present in the United States since January 5, 1999, and continuously resident in the

United States since December 30, 1998, as required for TPS applicants from Honduras under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's denial will be affirmed on those grounds.

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, or 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 that burden.

ORDER: The appeal is dismissed.