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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: Nebraska Service Center

Date:

[LIN 02 230 50235]

JUL 19 2007

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, Nebraska 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 denied the application because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts her claim of eligibility for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant 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 § 244.3;
- (e) Is not ineligible under § 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.

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. 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. 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).

On January 24, 2005, the applicant was requested to submit evidence establishing her continuous residence in the United States as of December 30, 1998, and continuous physical presence in the United States from January 5, 1999, to the date of filing her application. The applicant was also requested to submit a copy of her birth certificate or passport as well as evidence to substantiate the use of her claimed name of [REDACTED]

The applicant responded to the director's request and submitted a copy of an employment letter dated June 20, 2002, from the Canteen Corporation stating that [REDACTED] had been employed since September 17, 1999; a self-affidavit stating that the applicant used the name of "[REDACTED]" a letter dated December 11, 1999, from [REDACTED] stating that the applicant had been a customer of her store since 1999; and a copy of her marriage certificate with an English translation.

The director determined that the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States; therefore, the director denied the application on March 26, 2003.

On appeal, the applicant states that she arrived the United States in September 1998, and submits copies of two earnings statements from Highland Corporation dated December 29, 1998, and January 11, 1999.

The two earnings statements from Highland Corporation are not supported by corroborative evidence and do not cover the entire qualifying period for continuous residence and continuous physical presence.

Further, a review of the record of her husband, [REDACTED], reflects that he had stated that the applicant resided in Honduras on his initial TPS application filed on February 8, 1999. There appears to be a discrepancy regarding the applicant's claimed residence in the United States during the qualifying continuous residence and continuous physical presence timeframes.

It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

In addition, the record does not establish the applicant's use of two names. The director erred in stating that the Service is prepared to believe that she and [REDACTED] are one and the same person. The applicant submitted an affidavit dated stating that she had worked for Canteen Corporation under the name of [REDACTED]. The applicant also submitted an employment letter stating that [REDACTED] had been employed since September 17, 1999. However, her own statements and the employment letter cannot be considered as acceptable evidence of the applicant's use of two names. Evidence of the use of two names may include, but is not limited to, a marriage certificate or court document registered with the proper civil authorities. Therefore, the director's conclusion on this issue will be 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.