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**U.S. Citizenship
and Immigration
Services**

MI

[REDACTED]

FILE: [REDACTED]
[EAC 03 188 51488]

Office: VERMONT SERVICE CENTER

Date: JUL 30 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.

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 submit evidence to establish that she was eligible for filing after the initial registration period from January 15, 1999 to August 20, 1999. The director also determined that the applicant had not submitted sufficient evidence to establish that she had continuously resided in the United States since December 30, 1998, and that she had been physically present in the United States since January 5, 1999. The director, therefore, denied the application.

On appeal, the applicant states that she has lived in the United States since 1998, and she would like to reopen her case. The applicant also submits additional evidence in an attempt to establish her continuous residence and continuous 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 CIS 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 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.

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.

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. 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 time period.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record shows that the applicant filed her initial TPS application on June 6, 2003.

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

The record of proceeding confirms that the applicant filed her TPS application on June 6, 2003, after the initial registration period for Hondurans had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On August 9, 2004, 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

to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States from January 5, 1999. The applicant failed to respond to the notice. Therefore, the director denied the application.

On appeal, the applicant states that she has resided in the United States since 1998. According to the applicant, because of a lack of information, and because she thought she would be deported, she did not send her application during the initial registration period. The applicant requests that her case be reopened. The applicant also provides evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the requisite periods. However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, 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 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second and third issues in this proceeding are whether the applicant has established her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on August 9, 2004, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant failed to respond to the notice. The director concluded that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant furnished copies of ConEd utility bills dated March 7, 1999, May 6, 1999, and September 4, 1999, and a copy of an AT&T Wireless bill dated September 13, 1999.

One of the utility bills indicates a date of March 7, 1999, and is the earliest date presented as evidence of the applicant's presence in the United States. In addition, the record contains a Notice to Appear (Form I-862), which was issued on June 15, 2000, based on the applicant's entry into the United States without inspection, on or about June 14, 2000. This is further evidence that the applicant had not continuously resided or been continuously physically present in the United States during the qualifying period. The applicant has not submitted sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite periods. 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.

It is noted that the record of proceeding also contains a Form I-166, Notice to Deportable Alien, which was issued on December 28, 2000. It is further noted that the applicant failed to appear at the Phoenix, Arizona District office on March 14, 2001 for her enforced departure to Honduras.

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.