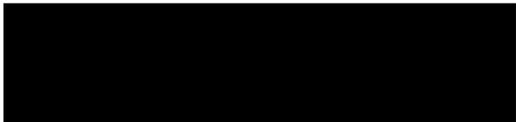




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy**



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FILE:



OFFICE: California Service Center

DATE: MAR 09 2007

[WAC 05 112 78211]

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 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 on the grounds that the record failed to establish that the applicant was continuously resident and physically present in the United States for the required periods of time, and that she is eligible for late registration.

On appeal, the applicant refers to previously submitted evidence of her presence in the United States since 1997 and submits a photocopy of her Honduran passport.

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.

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.

Honduran nationals applying for TPS must demonstrate continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS) on January 20, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated in 8 C.F.R. § 244.2(f)(2) above.

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).

On March 2, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), as well as documentary evidence of her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. In response the applicant, who the record indicates entered the United States without inspection at or near Brownsville, Texas, on October 16, 1996, submitted a photocopied pay statement issued to [REDACTED] by Total Personnel Staffing in Bergen, New Jersey, on January 29, 1999, along with two letters dated March 15, 2006 – one from a neighbor in New York City who states that she has known the applicant since 1997 and the other from an acquaintance in Tempe, Arizona, who states that she has known the applicant for six years and that the applicant once provided care for her infant granddaughter.

In a Notice of Decision issued on May 16, 2006, the director determined that the evidence submitted by the applicant failed to establish that she met the continuous residence and continuous physical presence requirements for TPS applicants from Honduras and that she was eligible for late registration.

The only new evidence submitted on appeal is a photocopy of the applicant's Honduran passport. The previously submitted letters from a neighbor and a friend provide no information about where the applicant has lived since first entering the United States in 1996 and no details regarding the extent of their personal knowledge about the applicant over the years. Moreover, letters or affidavits from acquaintances are not, by themselves, persuasive evidence of an alien's continuous residence and physical presence in the United States. While the pay stub from January 1999 may be viewed as evidence that the applicant was in the United States at that time, no further documentation of the types enumerated in the regulation at 8 C.F.R. § 244.9(a)(2) has been submitted to demonstrate that the applicant has maintained continuous physical presence and residence in the United States since then. If the applicant has lived in the United States continuously since 1996, as she claims, it is reasonable to expect that she would have more contemporaneous documentation than one pay stub from 1999. Simply going on record without supporting documentation does not satisfy the applicant's burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO concurs with the director's decision that the applicant has failed to establish her continuous physical presence in the United States since January 5, 1999, and her continuous residence 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).

Nor does the record include any evidence to establish that the applicant meets one of the criteria for late registration enumerated in 8 C.F.R. § 244.2(f)(2). The AAO concurs with this part of the director's decision as well.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. The director's decision to deny the application for TPS will be affirmed.

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 that burden.

**ORDER:** The appeal is dismissed.