

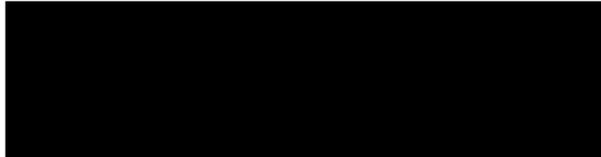


U.S. Citizenship
and Immigration
Services

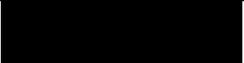
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FILE:



OFFICE: California Service Center

DATE:

MAR 29 2007

[WAC 06 007 70004]

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 claims to be 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 applicant failed to establish her nationality/identity; that she continuously resided in the United States since December 30, 1998, and was continuously physically present in the country since January 5, 1999; and that she filed a TPS application during the initial registration period or was eligible for late TPS registration and filed a timely late registration application.

On appeal the applicant requests that her case be reviewed.

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 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 in the United States since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed her initial Form I-821, Application for Temporary Protected Status, on October 7, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described 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 Citizenship and Immigration Services (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 February 22, 2006, the service center issued a Notice of Intent to Deny (NOID) in which it requested the applicant, who claims to have entered the United States without inspection on March 24, 1998, to submit evidence that she was eligible for late registration and met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, as well as her date of entry into the United States. The applicant was given 33 days to respond, but failed to do so.

In a Notice of Decision issued on May 3, 2006, the director, after noting the applicant's failure to respond to the NOID, denied the application on the grounds that the applicant failed to establish that she was continuously resident in the United States from December 30, 1998, and continuously physically present in the United States since January 5, 1999; that she filed a TPS application during the initial registration period for Honduran nationals from January 5, 1999 to August 20, 1999, or was eligible for late TPS registration under one of the qualifying conditions enumerated at 8 C.F.R. § 244.2(f)(2) and filed a timely late registration within 60 days of the end of her qualifying condition. The director also found that the applicant failed to establish her nationality and identity.

The applicant filed a timely appeal, but has submitted no further documentation.

Thus, there is still no evidence in the record that the applicant, who filed her initial TPS application more than six years after the end of the initial registration period for Hondurans, is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Nor does the record contain any evidence that the applicant 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). In addition, the documentation of record does not meet the evidentiary standards set forth at 8 C.F.R. § 244.9(a)(1), to establish the applicant's identity and nationality. Accordingly, the director's decision denying the application on the above 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 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.