



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: California Service Center

DATE: **MAY 02 2007**

[WAC 06 047 70149]

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 evidence of record failed to establish that the applicant was eligible for late TPS registration, and failed to establish her nationality.

On appeal, the applicant asserts that she has been living in the United States since 1997 and submits some additional documentation as evidence. 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 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 indicates that the applicant filed her initial TPS application with the California Service Center on November 16, 2005 – more than six years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she 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 May 23, 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), her date of entry into the United States and her nationality/identity, as well as her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. The applicant responded with additional evidence on June 20, 2006.

In a Notice of Decision issued on August 15, 2006, the director determined that the evidence submitted by the applicant was sufficient to establish her continuous residence and continuous physical presence in the United States from the requisite dates for TPS applicants from Honduras. However, the director also indicated that the evidence did not address the issues of nationality, identity, and eligibility for late registration. The director concluded that the applicant had not established her eligibility for TPS, and denied the application.

On appeal the applicant has submitted a photocopy of her national identity document, bearing her photo, issued by the Republic of Honduras. The AAO determines that this document establishes the applicant's identity and nationality, in accordance with the provisions of 8 C.F.R. § 244.9(a)(1).

The applicant also submits photocopied customer receipts from Western Union and a variety of retail establishments to document her presence in the United States over the years, an issue already adjudicated by the director in the applicant's favor. No evidence has been submitted on appeal, however, to show that the applicant qualifies for late TPS registration under any of the eligibility criteria enumerated at 8 C.F.R. § 244.2(f)(2). Thus, the applicant has still not established that she is eligible for late TPS registration. Accordingly, the director's decision denying the application will be affirmed on this ground.

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.