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U.S. Citizenship
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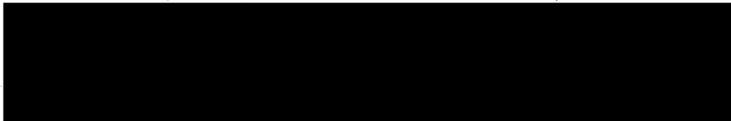


FILE: [REDACTED]
[WAC 06 047 70119]

OFFICE: California Service Center

DATE: MAY 08 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, 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 ground that the applicant failed to establish that she was eligible for late TPS registration.

On appeal the applicant states that she has lived in the United States since 1997 and submits some additional documentation of her presence in the country since then.

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.

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 November 15, 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 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 May 23, 2006, the service center requested the applicant, who claims to have entered the United States without inspection on September 15, 1997, to submit evidence that she was eligible for late registration, that she has been a resident of and physically present in the United States since the applicable dates in December 1998 and January 1999 for TPS applicants from Honduras, as well as evidence of her nationality/identity. The applicant responded with a photocopy of her Honduran passport – which established her identity and Honduran nationality – and numerous merchandise and money transfer receipts. No documentation was submitted to show the applicant's eligibility for late TPS registration.

On August 1, 2006, the director denied the application on the ground that the applicant failed to establish that she was eligible for late TPS registration.

On appeal the applicant reiterates that she has been in the United States since 1997, submits some additional merchandise and money transfer receipts as evidence of her presence in the country, and requests that her case be reconsidered. The additional documentation designed to demonstrate the applicant's continuous residence and physical presence in the United States does not mitigate the applicant's failure to file her application for TPS within the initial registration period for Honduran nationals. The applicant has submitted no evidence to establish that she meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application for TPS on this ground will be affirmed.

Beyond the decision of the director, the AAO determines that the evidence of record does not establish that the applicant has been continuously physically present in the United States since January 5, 1999, and that she has resided continuously 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). None of the materials submitted by the applicant comport with the evidentiary requirements of 8 C.F.R. § 244.9(a)(2), which identifies specific types of documentation to establish continuous residence and continuous physical presence in the United States. Thus, the application must also be denied on these grounds.

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.