

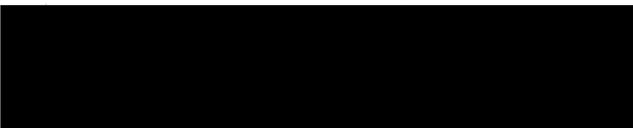


U.S. Citizenship
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FILE: [REDACTED]
[EAC 06 249 80449]

Office: VERMONT SERVICE CENTER

Date: NOV 05 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (VSC), denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who seeks 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 because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts that she is eligible for late registration as the child of a TPS registrant and submits additional documentation.

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 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.

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 since January 5, 1999.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on 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 record reflects that the applicant filed her initial TPS application on May 26, 2006 – almost seven years after the close of the initial registration period for Hondurans. The applicant indicated on her application that she entered the United States, without inspection, on August 18, 1999 – eight months after the cut-off dates for continuous residence and continuous physical presence. In support of her application, the applicant submitted documentation indicating that she was born on February 2, 1983, to [REDACTED] a TPS registrant with alien registration number [REDACTED], and various documents relating to her residence and physical presence. The applicant's mother submitted a letter with the application, stating that her daughter had entered the United States on August 18, 1999, and had been apprehended by the border patrol, but could not find the records pertaining to that apprehension.

On January 4, 2007, the director requested that the applicant submit evidence establishing her eligibility for the late initial registration provisions, a legible copy of her birth certificate, and, evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant did not respond to the director's request.

On February 26 2007, the director denied the application, finding that the applicant had failed to establish her qualifying continuous residence and continuous physical presence and that the applicant had failed to submit adequate evidence to show that she was eligible for TPS under the late registration provisions.

On appeal, the applicant submits photocopies of her birth certificate, her Honduran passport, a pay stub dated December 17, 1999, a student identification card from Westbury High School, earning statements from 2000, hospital records from 2000, and her mother's Employment Authorization Documents (EAD), indicating she has been approved for TPS.

Section 101(b)(1) of the Act defines a child as unmarried and under 21 years of age. The applicant was born on February 2, 1983. She was the child of an alien eligible to be a TPS registrant during the initial registration period for Salvadorans. She ceased to be a child for immigration purposes and for purposes of eligibility for late TPS registration on February 2, 2004, when she turned 21. At that point, she had 60 days in which to submit an initial TPS application under the late registration described in the regulations at 8 C.F.R. § 244.2(g). She did not file her initial TPS application until May 26, 2006, more than two years after her status as a child expired. The applicant has not submitted any evidence to establish that she has met any other criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for this reason will be affirmed.

Furthermore, a late-filing child of a TPS-eligible parent must meet the same continuous residence and continuous physical presence requirements as all other TPS applicants. Since the applicant did not enter the United States until August 23, 1999, she cannot satisfy the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). The director's decision to deny the application for TPS on these 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 this burden.

ORDER: The appeal is dismissed.