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FILE: [REDACTED]  
[LIN 02 251 52384]  
[LIN 01 232 50711]

Office: NEBRASKA SERVICE CENTER

Date: **OCT 02 2007**

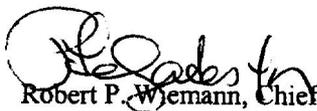
IN RE: Applicant: [REDACTED]

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. Wjemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applications were denied by the Director, Nebraska Service Center (NSC), and are now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and 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 NSC director determined that the applicant did not submit evidence to establish that she had continuously resided in the United States from December 30, 1998 and that she has been physically present in the United States since January 5, 1999. The director also found that the applicant was not eligible for late registration. The director, therefore, denied both applications on April 7, 2003. The applicant filed an appeal from that denial decision on April 30, 2003.

On appeal, the applicant submits a statement and additional documents.

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 parole; 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 term *continuously physically present*, as used in 8 C.F.R. § 244.1, means actual physical presence in the United States since January 5, 1999. Any departure, not authorized by CIS, including any brief, casual, and innocent departure, shall be deemed to break an alien's continuous physical presence.

The term *continuously resided* as used in 8 C.F.R. § 244.1 means residing in the United States for the entire period specified in the regulations and since December 30, 1998. 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 continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period for Honduras was from January 5, 1999 through August 20, 1999. The record reveals that the applicant filed her initial application under Citizenship and Immigration Services (CIS) receipt number LIN 01 232 50711 on July 20, 2001. She also filed another late first TPS application on July 29, 2002 (LIN 02 251 52384 relates).

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions 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 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 reveals that the applicant entered the United States illegally on or about June 18, 1999. Therefore, the applicant is not eligible for TPS as a Honduran because she arrived in the United States subsequent to the eligibility period and could not meet the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Furthermore, the applicant failed to establish her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2) because she was not present in the United States in any of the above-listed categories during the entire initial registration period from January 5, 1999 through August 20, 1999. Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that in removal proceedings on October 12, 2000, the applicant failed to appear at the scheduled hearing; therefore, the Immigration Judge ordered the applicant removed from the United States to Honduras. A Warrant of Removal/Deportation, Form I-205, was issued on October 12, 2000. The applicant failed to appear at the Port Isabel Processing Center on November 20, 2000, for her enforced departure.

Finally, the record indicates that the applicant was arrested on March 2, 2006 in by the Sheriff's Office in Gretna, Louisiana and charged with being a fugitive. She was turned over by local authorities to the U.S. Border Patrol.

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.