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U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

OFFICE: Texas Service Center

Date:

FEB 26 2008

[SRC 01 245 53255]

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:

[REDACTED]

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, Texas Service Center, and 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 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 because the applicant failed to establish that 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 during the requisite periods.

On appeal, the applicant states that she did not file her TPS application during the initial registration period because she was afraid that her application would be denied and she would be sent back to her country.

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.

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 designation of TPS for Hondurans has been extended several times, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite time period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on June 27, 2001, more than one year after the initial registration period for Hondurans had closed.

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). 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. 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 applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on May 21, 2002.

On appeal, the applicant states that she could not afford to file her application during the initial registration period because she did not have money due to her unstable job.

The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established 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 submitted the following documentation:

1. A copy of the applicant's birth certificate and an English translation;
2. A copy of the applicant's Honduran passport;
3. A copy of an affidavit from [REDACTED] dated June 15, 2001, attesting that she has employed the applicant on several occasions in 1998, 1999, and 2001;
4. A copy of an affidavit from [REDACTED] s dated June 15, 2001, stating that she has employed the applicant on one occasion in December 1998;
5. A copy of letter from MoneyGram MoneySaver dated October 16, 2000; and,
6. A copy of letter dated March 1, 2001 from [REDACTED] ., attesting that the applicant has been his patient since December 22, 1998.

The director concluded that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant asks CIS to reconsider her TPS application and grant her permission to stay and work legally in the United States so that she can help support her family. She submits copies of 1999 Rent receipts for Lot 36; and, a copy of an undated affidavit from [REDACTED] Manager of [REDACTED] stating that the applicant is a resident at [REDACTED] , since October 15, 1998.

It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support her assertions of being in the United States during the requisite time period as she claimed to have been present since June 28, 1998. Although the affiants state in the affidavits that they have employed the applicant occasionally in 1998, 1999, and 2001, there has been no corroborative evidence to substantiate their assertions. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by church,

unions, or other organizations of the applicant's residence as specifically described in 8 C.F.R. §244.9(a)(2)(i) and (v). Furthermore, the hand-written rent receipts are not supported by any corroborative evidence as they do not state the name and address of the leased premises. Therefore, these receipts carry little evidentiary weight and will not serve to establish the applicant's eligibility.

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since December 30, 1998, or her continuous physical presence in the United States since January 5, 1999. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also 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.