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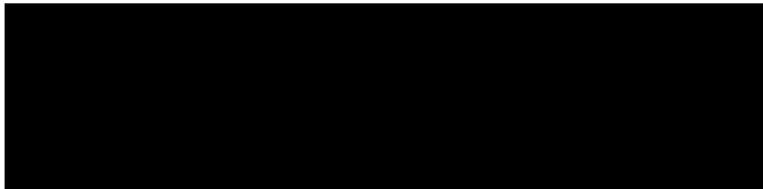
OFFICE: Vermont Service Center

DATE: FEB 26 2008

[EAC 06 259 85908]

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:



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.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of Honduras who is applying for 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 had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999.

On appeal, counsel for the applicant states that the applicant is an eligible TPS late initial registrant because she is the child of two TPS beneficiaries and that she entered the United States on or before December 30, 1998.

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.

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 in the United States 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 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).

On November 21, 2006, the applicant was requested to submit evidence establishing her continuous residence since December 30, 1998 and continuous physical presence since January 5, 1999, in the United States. The applicant, in response, submitted documentary evidence, the majority of which covered a period of time starting in 2002. The only document that the applicant submitted to establish her residence and physical presence in the United States prior to 2002 is an affidavit from [REDACTED] and [REDACTED] attesting that the applicant and her parents resided with them at [REDACTED] from March 4, 1998 to April 3, 2004. However, this affidavit appears to directly conflict with a school document from the Benjamin Franklin Middle School, dated August 19, 2003, and a photo identification card from Positive Proof, issued on February 21, 2003 that the applicant submitted. Both of these documents listed the applicant's parents' address as [REDACTED]. It is also noted that while the applicant submitted documentary evidence of school attendance in the years 2002, 2003, and 2004, she failed to submit any documentary evidence of school attendance in the years 1998, 1999, 2000, and 2001. It is reasonable that a school age child who has resided in the United States

should be able to submit documentary evidence in the form of school records and medical records for each year of their residence.

The director determined that the applicant had failed to submit sufficient documentary evidence to establish her residence and physical presence in the United States and denied the application on January 22, 2007.

On appeal, counsel for the applicant states that the applicant has resided continuously in the United States since the date of her entry and submits the following documentation:

1. An Affidavit of Residence in the United States from the applicant's parents dated December 10, 2006;
2. A copy of an Apartment Rental Agreement from the Georgia Apartment Association (GAA) dated April 1, 2004;
3. A copy of an un-translated Form W-7 (939-70-7404) issued to the applicant dated March 12, 2003;
4. A copy of an undated insurance card issued to the applicant's family;
5. Copies of an A & B Honor Roll certificate for Exceptional Performance presented to the applicant from Garrett Middle School in May 10, 2005;
6. Copies of an Outstanding Achievement Certificate from Garrett Middle School presented to the applicant on May 18, 2005;
7. Copies of Immunization records during the period from 1991 to 2003;
8. Copies of the applicant's 2004 Report Card from Benjamin Franklin Middle School, and a 2007 Report Card from Hill Crest High School; and,
9. Copies of Form 1040A, U.S. Individual Income Tax Return, for the years 2000, 2001, 2002, 2003, and 2005 filed by the applicant's mother.

A careful review of the documentary evidence submitted reveals inconsistencies between the claimed times and places where the applicant has lived since she entered the United States. For example, in the Affidavit of Residence in the United States furnished by the applicant, her parents state that the applicant resided at the following addresses:

- A. From March 4, 1998 to September 1, 2001, at [REDACTED]
- B. From September 1, 2001 to September 1, 2002, at [REDACTED]
- C. From September 1, 2002 to April 1, 2004 at [REDACTED]
- D. From April 1, 2004 to July 7, 2005, at [REDACTED] AND [REDACTED]  
[REDACTED]; and, [REDACTED]
- E. From July 7, 2005 to the present, at [REDACTED]

However, these statements are contradicted by information shown in the Georgia Apartment Association (GAA), Apartment Rental Agreement. The rental agreement dated April 1, 2004, confirmed that the applicant and her family had lived at [REDACTED] from April 1, 2004 to April 30, 2005.

In addition, the Forms 1040A, U.S. Individual Income Tax Return, submitted by the applicant's mother for the years 2000, 2001, 2002, 2003, and 2005, reflect that the applicant was listed as a dependent. However, the

address on these forms, [REDACTED] remained unchanged throughout every tax year even though the applicant's parents claimed that the applicant and her family had lived at this address from March 4, 1998 to September 1, 2001, and at different addresses thereafter. Personal income tax documents are not sufficiently probative to demonstrate continuous physical presence for an applicant during that period. In addition, tax forms that are not certified are of no probative value because CIS cannot determine that such documentation was actually submitted contemporaneously during the period covered.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies detailed above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish eligibility for TPS.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the requisite period. She has, thereby, 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 will be affirmed.

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.