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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 06 192 51839]

OFFICE: Vermont Service Center

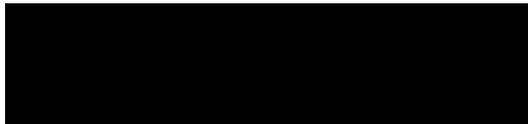
Date: JAN 03 2008

IN RE: Applicant:



APPLTCATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 V.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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant claims to be 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 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 asserts through counsel that she is eligible for late registration as a prior applicant for an adjustment of status.

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
- (t)
 - (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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on June 5, 2006.

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.

On August 23, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(t)(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 January 25, 2007. On appeal, the applicant asserts through counsel that she is eligible for late registration as either a child of an alien currently eligible to file for TPS, or that she had an application for adjustment of status active until May 5, 2006.

The applicant's adjustment of status application was filed subsequent to the registration period for Hondurans, and does not qualify the applicant to file a late registration application.

Service regulations may allow the child of an alien currently eligible to be a TPS registrant to file an application after the closing of the initial registration period; however, section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." Evidence of record reveals that the applicant (who was born on August 6, 1981) was 21 years old during as of August 7, 2002. CIS regulations require a late registration to be filed within a 60-day period immediately following the expiration or termination of such conditions. 8 C.F.R. § 244.2(g). In this case, since the applicant turned 21 on August 7, 2002, her 60-day period for late registration actually expired on October 9, 2002. The applicant filed her application for TPS with the director on June 5, 2006.

The applicant did not file her application during the initial registration period or during the allotted 60-day late registration period described in 8 C.F.R. § 244.2(g). Consequently, the director's decision to deny the application for temporary protected status 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.

As stated above, the applicant was requested on August 23, 2006, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted additional medical records and tax documentation.

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 asserts that she has a qualifying continuous residence and physical presence during the required period.

The applicant has submitted medical records, tax records, birth certificates, pay stubs, and letters. However, even in a light most favorable to the applicant, the evidence only covers periods from 1999 or later. The only evidence prior to this is two entries on a clinical visit records list, accompanied by a letter stating the clinic indicates the two visits on the record. The applicant claims to have been present in ~~the~~ United States since 1998, most of the evidence submitted is for 2002 or later, and the AAO would note that the tax forms submitted by the applicant are not certified and thus cannot be considered contemporaneous with the dates covered therein. The applicant has not provided sufficient documentation support her assertions, there are no school records, no employer letters, no state identifications, or any other corroborating evidence in the record. The totality of the evidence in the record does not support eligibility.

The applicant has not submitted any evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the required periods. 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.