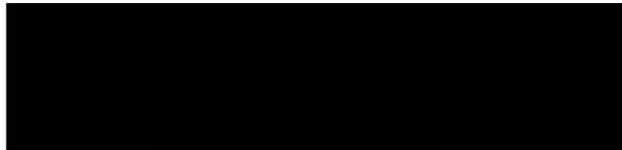




**U.S. Citizenship
and Immigration
Services**

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invasion of personal privacy

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **JAN 22 2008**
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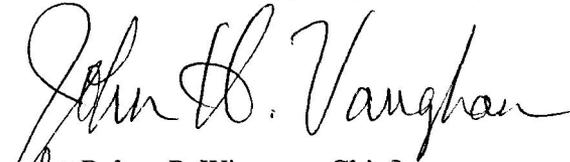
INRE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is 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 she was eligible for late registration. The director also found the applicant failed to establish her nationality and identity, as well as her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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.

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. The record reveals that the applicant filed her initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on September 2, 2003 - more than four years after the initial registration period had ended.

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 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

In support of her initial TPS application, the applicant submitted a photocopy of an abstract of her Honduran birth certificate.

On March 13, 2007, 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 nationality and identity, and her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to establish: (1) that she was eligible for late registration; (2) her nationality and identity; and, (3) her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on May 14, 2007.

On appeal the applicant submits a photocopy of the photo-identification page from her Honduran passport, showing that she was born in Honduras on January 12, 1982. Therefore, the applicant has established her nationality and identity as required under the provisions of 8 C.F.R. § 244.9(a)(1). Consequently, that part of the director's decision denying the application for failure of the applicant to establish her nationality and identity will be withdrawn.

The record also reveals that the applicant's mother, _____, is an alien currently eligible to be a TPS registrant. Since the applicant qualified as a "child," for immigration purposes, during the initial registration period in 1999, she was eligible for late registration under 8 CF.R. § 244.2(f)(2)(iv). *See* section 101(b)(1) of the Act ("The term 'child' means an unmarried person under twenty-one years of age ., ."). However, the applicant ceased to be a child for immigration purposes when she turned 21 on January 12, 2003. Therefore, under the provisions of 8 CF.R. § 244.2(g) the applicant had a 60-day period - until March 13, 2003 - to file an application for TPS. Since the applicant did not file her TPS application until September 2, 2003, however, she did not meet this requirement for late registration. Consequently, the director's decision to deny the application on the ground that the applicant failed to establish her eligibility for late registration will be affirmed.

Furthermore, the applicant does not claim to have entered the United States until January 1999 and there is no documentation in the record of her presence in the United States before November 1999. Therefore, the applicant has failed to establish 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 required for TPS applicants from Honduras under 8 CF.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application 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 Temporary Protected Status has the burden of proving that she 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.