

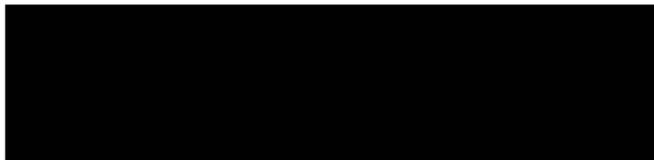
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FILE: [REDACTED]  
[EAC 04 011 51767]

Office: VERMONT SERVICE CENTER

Date: MAR 1 22D08

INRE: Applicant:

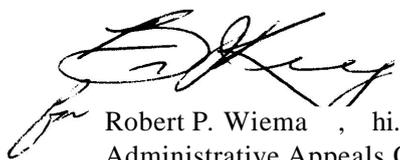


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: 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. Wiema, 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 sustained.

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 determined that the applicant failed to establish that she was eligible for filing her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant states that she qualifies for late registration for TPS. The applicant also submits additional evidence of her continuous residence and continuous physical presence in the United States.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant did file an initial application for TPS on August 28, 1999. That application was denied for abandonment on May 29, 2002, for failure to establish her eligibility to file for late initial registration. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The record shows that the applicant submitted an application for asylum that was denied on July 22, 1997. The applicant appealed that decision on August 20, 1997. The Board of Immigration Appeals (BIA) issued its final decision on June 29, 1999. The applicant had until August 29, 1999; 60 days immediately following the expiration of her asylum application process, to submit her TPS application. The applicant submitted her initial TPS application on August 28, 1999. The applicant was therefore eligible for late registration for her initial application. Thus the denial of the application for the stated basis was erroneous. Consequently, the August 16, 2003 TPS re-registration application was properly filed.

The record contains sufficient evidence to establish that the applicant has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). In addition, the applicant has submitted sufficient evidence to establish that she has met the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar the applicant from receiving TPS. Therefore, the director's decision will be withdrawn and the application will be approved.

Beyond the director's decision, it is noted that the record shows that on February 12, 2003, an immigration judge **granted** the applicant voluntary departure. However, there is no evidence in the record that the applicant actually left the United States.

An alien applying for temporary protected status 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 met this burden.

**ORDER:** The appeal is sustained.