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U.S. Citizenship
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Services

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NOV 26 2008

FILE: [REDACTED]
[EAC 07 012 74620]

Office: VERMONT SERVICE CENTER

Date:

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

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 is 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 determined that the applicant failed to establish she: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that she has been in the United States since 1997 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the qualifying period.

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 as designated by the Attorney General is eligible for temporary protected status 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.

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.

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 to August 20, 1999. The record shows that the applicant filed this application on October 12, 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 proceeding 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 from January 5, 1999 through August 20, 1999, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

In support of her TPS application, the applicant submitted the following:

1. A copy of her Honduran passport.
2. Copies of a receipt from Flash Van Tours dated June 12, 2001, and receipts from various retail stores.

3. Copies of money order receipts dated December 31, 1998, August 12, 1999, August 20, 1999, December 6, 1999, August 21, 2004, and October 16, 2004.
4. Copies of her Internal Revenue Service (IRS) Form W-2 Wage and Tax Statements for the years 2002, 2003 and 2004.
5. Copies of a refund notice from Pacific Gas and Electric Company dated February 8, 2005, and bills from Comcast dated July 4, 2004, from Hycite Finance dated November 15, 2003, and SBC dated July 28, 2004.
6. A copy of a Delta Airlines ticket receipt dated January 25, 2005.
7. Copies of Earnings Statements dated October 20, 2002, December 20, 2002, October 20, 2003, February 20, 2004 and June 5, 2002.

On December 4, 2006, the applicant was provided the opportunity 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 continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States from January 5, 1999, to the date of filing the application. The applicant failed to respond to the notice. Therefore, the director denied the application.

On appeal, the applicant states that she has been in the United States since 1997 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period. 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 failed to establish her eligibility for late registration will be affirmed.

The second and third issues in this proceeding are 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 December 4, 2006, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant failed to respond to the notice. 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 submits:

8. Copies of money transfer receipts dated April 25, 2005, August 28, 2005, December 20, 2005, January 23, 2006, May 8, 2006, and June 26, 2006.
9. Copies of receipts from Americash Pawn Shop dated November 11, 2005, and DIP Shipping Co. dated December 4, 2005.

10. Copies of her Earnings Statements dated August 5, 2002, to May 20, 2004 her IRS Form W-2 Wage and Tax Statement, for 2002, a Bank of America receipt dated November 30, 2005, and copies of envelopes postmarked January 4, 2005, and March 29, 2007.
11. Copies of receipts from various retail stores.
12. Copies of bills from Comcast dated January 22, 2005; County of Santa Clara dated August 24, 2004 and September 2, 2003; Pacific Gas and Electric Company dated February 1, 2005 and Bank of America dated March 18, 2006,

The passport establishes the applicant's identity and nationality. The various retail store and money order receipts do not bear the applicant's name or indicate any connection to the applicant. Therefore, these receipts are of no probative value. The hand-written receipt from Flash Van Tours dated June 12, 2001 is the earliest date as evidence of the applicant's presence in the United States during the requisite period. The remaining evidence presented by the applicant does not establish the applicant's continuous residence since December 30, 1998, and her continuous physical presence in the United States from January 5, 1999, to the filing of her TPS application.

The applicant has not submitted sufficient evidence 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. 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 temporary protected status 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 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.