

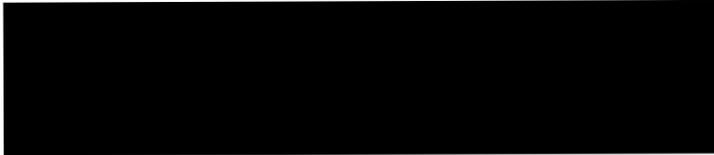
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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [WAC 05 081 76840] OFFICE: California Service Center DATE: OCT 02 2008

IN RE: Applicant:



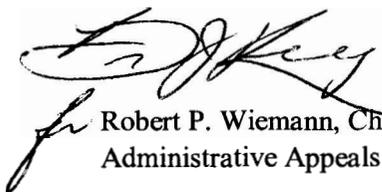
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is stated 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 record reveals that the applicant filed an initial TPS application on August 28, 2000, under receipt number EAC 01 088 50643. On April 4, 2001, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States, to the date of filing her TPS application. On June 15, 2001, the Director, Vermont Service Center (VSC), denied that application after he determined that the applicant 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. The applicant submitted a subsequent appeal from the director's decision on August 7, 2001. On May 29, 2002, the AAO rejected that appeal because the appeal had been filed by an individual who had not established that she had legal standing to file an appeal in the proceeding. In addition, as the director's decision to deny the applicant's TPS application was not contained in the record, the AAO remanded the case to the director.

The record further reveals that on May 20, 2003, the applicant was again requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States, to the date of filing her TPS application. On July 22, 2003, the VSC director denied that application because the applicant failed to respond to the request for additional evidence in support of her TPS application. The record does not reflect that the applicant filed an appeal from the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 20, 2004, and indicated that she was re-registering for TPS. The CSC director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant has now submitted an appeal from the director's decision.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the applicant was eligible for late registration because she is a minor child of a TPS registrant. While regulations may allow children of TPS beneficiaries to file their application after the initial registration period had closed; these regulations do not relax the requirements for eligibility for TPS. The child is still required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2 (b) and (c). The applicant indicated on her Form(s) I-821 that she entered the United States in the year of 1998; however, on her mother's Form(s) I-821, signed and dated on May 7, 1999, and March 16, 2000, the applicant's mother indicated that the applicant resided in Honduras. 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The record does not explain or contain any objective evidence to explain or justify the inconsistencies.

In addition, the applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since December 30, 1998, or 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).

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.