U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAY 21 2004

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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant is a native and citizen of Honduras who indicated on her application that she entered the United States without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant states that she has lived in the United States since March of 1995 and never left the country.

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 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.

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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

(1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on June 4, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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).

On June 19, 2002, 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 qualifying residence and physical presence in the United States. While the applicant, in response, provided documentation relating to her residence and physical presence in the United States, she failed to submit evidence that she qualified for late registration.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on September 16, 2002.

On appeal, the applicant states that she is physically ill and needs to remain in the United States to care for her daughter who was born here. The applicant also states that she submitted applications previously but that these were not approved. The applicant submits a Form I-765 and Form I-821 that were rejected by the Service (now CIS) in 2000.

As pointed out by the director, and as stated above in 8 C.F.R. § 244.2(f)(1) an applicant is eligible for TPS if he or she **registers** for TPS during the initial registration period announced by public notice in the *Federal Register*... According to 8 C.F.R. § 244.1 "**register**" means to "**properly file**" a completed application, with proper fee, for Temporary Protected Status during the registration period designated under 244(b) of the Act. 8 C.F.R. § 103.2(a)(7), "**properly filed**" means:

> An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and, unless otherwise specified in part 204, part 245 or part 245a of this chapter, shall be regarded as **properly filed** when so stamped, if it is signed and executed and the required filling fee is attached or a waiver of the filing fee is granted.

The applicant did not properly file a TPS application within the allotted time period. There is no other humanitarian relief available under the TPS provisions. The applicant has not submitted sufficient 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 decision to deny the application for temporary protected status will be affirmed.

It is noted that the applicant's FBI fingerprint report indicates that the applicant was apprehended on March 18, 1995, by the U.S. Border Patrol, at McAllen, Texas, under another record, A73 754 812, and placed under deportation proceedings. The final disposition of that arrest is not included in the record.

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.