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U.S. Department of Homeland Security
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Washington, DC 20529



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

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FILE: [REDACTED]
[EAC 03 183 51783]

Office: Vermont Service Center

Date: **APR 12 2005**

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 office that originally decided your case. Any further inquiry must be made to that office.


for
Robert P. Wiemann, Director
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 dismissed.

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 denied the application because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant asserts her eligibility for TPS and submits evidence in support of her claim.

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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status 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 initial application with Citizenship and Immigration Services (CIS), on May 29, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or 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 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 he or 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 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).

On July 8, 2003, the applicant was also requested to submit evidence establishing her residence in the United States as of December 30, 1998, and her physical presence in the United States from January 5, 1999, to the date of filing her application. The applicant was also requested to submit two photos. In response, the applicant submitted some evidence in an attempt to establish her continuous residence and continuous physical presence in the United States. The director determined that the applicant had failed to respond to his request for evidence. The director, therefore, denied the application on September 15, 2003. It is noted that the director stated in his decision that the applicant did not respond to the director's request for evidence. However, upon review of the file, it appears the applicant did respond to the director's request on July 24, 2003, before the issuance of his decision.

On appeal, the applicant states that her husband is a TPS beneficiary from Honduras, and submits a copy of his Employment Authorization card. She further claims that she entered the United States in 1998, and that she had already provided proof.

A review of the record of proceedings reflects that the applicant claimed on the Form I-821, Application for Temporary Protected Status, that she married [REDACTED] on November 20, 1997, in Colon, Honduras. The applicant also submitted a copy of her marriage certificate in Spanish; however, it was not accompanied with an English translation. A review of [REDACTED] Employment Authorization card and CIS' computer systems indicates that he is an eligible TPS registrant. As such, the applicant has established that she has met one of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish her qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). As stated previously, on July 8, 2003, the applicant was requested to submit evidence establishing her continuous residence and continuous physical presence in the United States. On July 24, 2003, the applicant responded to the director's July 8, 2003, and submitted the following documentation: an undated, hand-written letter from [REDACTED] who stated that she had known the applicant since September 1998, and that the applicant had lived with her during the months of September [1998] to January of "99"; hand-written receipts dated January 22, 1999, February 1999, and June 23, 2001; and copies of two money transfers, one bearing the date of August 8, 2001, and the other date is illegible.

Although, the hand-written letter from [REDACTED] indicates that the applicant lived with her, it does not specify where the applicant lived during the time of their acquaintance. In addition, the letter is not notarized, and thus, has little evidentiary weight. The receipts provided by the applicant are not supported by any other credible evidence during the same time period. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. Further, the money transfer dated August 8, 2001, post-dates the requisite time periods for TPS. In addition, the applicant also submitted a copy of her passport issued to her in Honduras on May 7, 2000. Therefore, she could not have met the requirements that

she had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999. The applicant has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will be denied for these reasons.

An alien applying for TPS 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.