



U.S. Citizenship  
and Immigration  
Services

Identifying information deleted to  
prevent unauthorized disclosure  
invasion of personal privacy

**PUBLIC COPY**

MI

MAY 17 2005

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date:

[EAC 03 212 54309]

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.

*Cindy N. Gomez*

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 applying for 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 that she was eligible for late registration. The director also denied the application because he found that the applicant had not submitted sufficient evidence of her continuous physical presence.

On appeal, the applicant submits a statement and additional evidence.

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 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.

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 July 7, 2003.

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).

The applicant submitted the following documents with her Form I-821:

1. a Honduran birth certificate with English translation indicating that [REDACTED] was born in Tela, Atlantida, Honduras, on December 3, 1990, to [REDACTED] a Honduran citizen, and [REDACTED] also a Honduran citizen;
2. a photocopy of the biographic pages of a Honduran passport issued to [REDACTED] in New York, New York, valid from March 1, 2002 to March 1, 2007;
3. an Employment Authorization Card valid from September 30, 1999 to July 5, 2000, indicating that [REDACTED] a citizen of Honduras, CIS registration number [REDACTED] had applied for TPS; and,
4. a photocopy of Employment Authorization Cards valid from July 6, 2001 to July 5, 2002 and from July 6, 2002 to July 5, 2003, respectively, indicating that [REDACTED] CIS registration number [REDACTED] had been granted TPS.

On August 13, 2003, the applicant was requested 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 continuous residence and continuous physical presence in the United States, and indicated that she entered the United States after the requisite time period for TPS. The record does not contain a response from the applicant.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on October 22, 2003.

On appeal, the applicant explains that she is eligible for late initial registration as the child of a Honduran citizen who has been granted TPS. She submits a photocopy of an Employment Authorization Card [REDACTED] valid from July 6, 2003 to January 5, 2005, indicating that [REDACTED] has been granted TPS.

The record contains a birth certificate indicating that the applicant was born in Honduras on December 3, 1990, to [REDACTED] and evidence establishing that Ms. [REDACTED] has been granted TPS. Therefore, it is concluded that the applicant has submitted sufficient evidence to establish that she qualifies for late initial registration as the child of a Honduran citizen who has been granted TPS as set forth at 8 C.F.R. § 244.2(f)(2).

The director also denied the application because the applicant had not submitted sufficient evidence to establish continuous physical presence in the United States since January 5, 1999.

On appeal, the applicant submits the following evidence:

1. a "statement" from [REDACTED] CSW, CSAC, in Massapequa, New York, for psychotherapy sessions on January 5, January 12, January 19, and January 26, 1999 [when the applicant was 8 years of age];
2. a form from [REDACTED] RN, in Farmingdale, New York, listing individual psychotherapy sessions on February 15, March 3, March 17, March 31, April 20, May 4, May 17, May 31, and June 14, 1999;
3. a photocopy of the applicant's Interim Report dated October 9, 2003, from [REDACTED] School, Farmingdale, New York; and,
4. a form letter dated September 18, 2003, from "Mr. [REDACTED] - Grade 6" indicating that the applicant had failed to turn in three mathematics assignments.

The applicant states on the Form I-821 that she entered the United States on November 20, 1999. On appeal, however, she submits documents indicating her presence in the United States as early as January 5, 1999. The applicant has not provided any explanation as to how she could have received psychotherapy from January through June 1999 when she did not enter the United States until November 20, 1999. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Further, it is incumbent on 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. (Comm. 1988).

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous physical presence in the United States during the requisite time periods. She has, thereby, 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 this basis will be affirmed.

Beyond the decision of the director, the applicant cannot establish continuous residence in the United States since December 30, 1998, since she has indicated that she did not enter the United States until November 20, 1999. Therefore, the application also must be denied for this reason.

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.