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U.S. Citizenship
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FILE:

[REDACTED]

OFFICE: California Service Center

DATE:

APR 27 2007

[WAC 05 146 78137]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a 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 on the grounds that the applicant failed to establish her eligibility for late TPS registration, as well as her continuous residence and continuous physical presence in the United States from the requisite dates for TPS applicants from Honduras.

On appeal the applicant requests that her case be reviewed.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

Applicants for TPS from Honduras 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 shows that the applicant filed her initial TPS application with the California Service Center on February 23, 2005 – five and one half years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the criteria enumerated in 8 C.F.R. § 244.2(f)(2) above.

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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On June 7, 2006, the director sent the applicant a notice of intent to deny (NOID), requesting the submission of evidence that she was eligible for late registration and that she was continuously resident and physically present in the United States from the dates applicable for TPS applicants from Honduras. In response the applicant submitted a letter from the owner of a cleaning service, dated June 18, 2006, who stated that the applicant has been employed by the company since July 20, 1999; a letter from Chevy Chase Bank, dated June 13, 2006, stating that the applicant has had an account with the bank since June 4, 2001; a letter from a church pastor, dated June 13, 2006, stating that the applicant is a parishioner; a bill from Comcast issued to the applicant in June 2006; photocopies of the applicant's Honduran passport and birth certificate; and a Spanish-language receipt from a Honduran organization apparently issued to the applicant in June 2005.

By decision dated August 9, 2006, the director stated that the applicant had not established her eligibility for TPS and denied the application. The director determined that the evidence submitted in response to the NOID was insufficient to establish that the applicant had continuously resided in the United States since December 30, 1998; that she had been continuously physically present in the United States since January 5, 1999; and that she filed a TPS application during the initial registration period between January 5 and August 20, 1999, or was eligible for late TPS registration under one of the qualifying criteria enumerated at 8 C.F.R. § 244.2(f)(2).

On appeal, the applicant requests that her case be reviewed. No further evidence has been submitted.

The AAO concurs with the director's finding that the applicant – who filed her TPS application five and one half years after the close of the initial registration period for Honduran nationals – has failed to establish that she is eligible for late TPS registration under one of the qualifying criteria enumerated at 8 C.F.R. § 244.2(f)(2). Based on the evidence of record – none of which places the applicant in the United States prior to July 1999 – the AAO also concurs with the director's finding that the applicant has failed to establish that she has been continuously physically present in the United States since January 5, 1999, and has continuously resided in the United States since December 30, 1998, as required for TPS applicants from Honduras under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's denial of the application on the foregoing grounds will 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 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.