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**U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529**



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

M1

FILE:

[WAC 05 127 76772]

OFFICE: California Service Center

DATE:

JUN 04 2007

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: 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.

Cindyn. Somer for
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 The director's decision will be withdrawn. The appeal will be sustained.

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 ground that the applicant had failed to provide evidence that she was eligible for late registration.

On appeal the applicant states that she did not receive a notice of intent to deny because it was sent to the wrong address, and submits a record of her new address.

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.

Honduran nationals applying for TPS 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2007, upon the applicant's re-registration during the requisite time period.

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).

The applicant, who was born in Honduras on November 13, 1991 and claims to have entered the United States without inspection in October 1995, filed her initial Form I-821, Application for Temporary Protected Status, on January 21, 2005. After the applicant failed to respond to a request for evidence issued on February 23, 2006, the director denied the application on May 25, 2006, on the ground that the applicant had failed to establish that she was eligible for late initial filing of her TPS application.

The applicant filed a timely appeal, asserting that she had not received the director's request for evidence because it had been sent to the wrong address. The applicant states that she had advised the California Service Center in June 2005 of a change in address, and submits photocopies of the pertinent documentation.

The evidence submitted with the applicant's Form I-821 in January 2005 included the following documentation: a letter from [REDACTED] stating that she is the applicant's mother, that she is a TPS registrant, and that her daughter has been living with her in the United States; a photocopy of [REDACTED] Employment Authorization Card, valid from July 6, 2003 to January 5, 2005; a photocopy of the applicant's birth certificate showing that she was born on November 13, 1991, in or near Choloma Cortes, Honduras, and that her parents were [REDACTED] and [REDACTED]; a document signed and stamped by a medical doctor at the Elmhurst Hospital Center in Jackson Heights, New York, dated December 3, 2004, confirming that the applicant came to that facility during the time frame of November 22, 1995 to July 2, 2001; photocopies of medical forms from two other facilities in Queens, New York, confirming that the applicant was treated by them between December 2003 and June 2004; and a document stamped by the New York City Board of Education confirming that the applicant was enrolled in the public school system from kindergarten through fifth grade in

the years 1996-2002. Based on the foregoing documentation, the AAO determines that the applicant has established, in accordance with the requirements at 8 C.F.R. § 244.2(a), (b), and (c), her identity as a Honduran national, that she has been continuously physically present in the United States since January 5, 1999, and that she has been continuously resident in the United States since December 30, 1998.

The current TPS application was filed on January 21, 2005, approximately five and a half years after the close of the initial registration period for TPS applicants from Honduras on August 20, 1999. To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above.

As previously noted, the record includes a photocopies of the applicant's birth certificate, identifying her mother as [REDACTED], and an Employment Authorization Card issued to [REDACTED] (identifying her file number as [REDACTED] with a validity period of July 6, 2003 – January 5, 2005. Citizenship and Immigration Services (CIS) records show that [REDACTED] was granted TPS on May 16, 2000, based on an application filed during the initial registration period for Honduran nationals, and that she regularly extended her TPS thereafter up to 2006. Based on the foregoing evidence, the applicant qualifies for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv) as the "child of an alien currently eligible to be a TPS registrant."

The record does not reveal that the applicant is inadmissible to the United States on any other grounds. The AAO determines that the applicant has established her eligibility for TPS in accordance with section 244(c) of the Act and 8 C.F.R. § 244.2. Accordingly, the director's decision denying the application will be withdrawn. The appeal will be sustained, and the application approved.

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 met that burden.

ORDER: The director's decision of May 25, 2006, is withdrawn. The appeal is sustained.