



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 18 2007

[WAC 05 133 71854]

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a 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 determined that the applicant failed to establish she: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that she has been in the United States since 1997 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as 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.

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.

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.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. 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 period.

The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed this application on February 10, 2005.

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 Citizenship and Immigration Services (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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On May 23, 2006, 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 nationality and identity, her continuous residence in the United States since December 30, 1998 and her continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in response, provided evidence of her nationality and identity, and provided evidence

in an attempt to establish continuous residence and continuous physical presence during the qualifying period. She did not present evidence of her eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that she entered the United States in 1997 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period.

The second and third issues in this proceeding are whether the applicant has established her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on May 23, 2006 to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. A copy of the applicant's Honduran passport.
2. Copies of money transfer receipts dated March 4, 1998, December 10, 1999, January 30, 2000, May 10, 2000, September 20, 2001, April 10, 2001, July 22, 2001, November 5, 2001, December 23, 2001, October 5, 2002, May 5, 2004, August 3, 2004, September 7, 2004, March 5, 2005, April 18, 2005, October 20, 2005, and April 24, 2006.
3. Copies of Teco Gas bill dated March 3, 2005, September 10, 2005, December 2, 2005, and February 8, 2006.
4. A collection notice from AMO Recoveries, Inc. dated May 2, 2003.
5. Copies of Screening/Education/Discharge Instructions dated March 5, 2003, a Public Health Trust Appointment Slip dated February 25, 2003, prescriptions from Penalver Clinic dated July 16, 2002 and March 5, 2003, and a Futura Opticians appointment notice dated January 30, 2002.
6. A statement from [REDACTED]

The director concluded that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

7. Statements from [REDACTED] and [REDACTED]
8. Copies of money transfer receipts dated August 31, 2002, December 27, 2003, May 28, 2004, August 28, 2004, October 28, 2004, April 22, 2005, June 30, 2005, July 7, 2005, August 17, 2005, October 10, 2005, February 8, 2006, February 13, 2006, March 21, 2006, and July 14, 2006.
9. A billing statement from Jackson Memorial Hospital, Miami, Florida, dated November 11, 2002, an appointment notice from Penalver Clinic dated May 27,

2003, a State of Florida Department Of Children and Families remittance dated November 15, 2005, and a statement from AMO Recoveries, Inc. dated November 26, 2002.

10. Copies of statements from Teco Gas dated March 3, 2005, January 26, 2006 and, February 8, 2006.
11. Copies of money order receipts dated May 18, 1999, February 16, 2000, and July 13, 2004.
12. Copies of receipts from various retail stores.

The passport establishes the applicant's nationality and identity. [REDACTED] states she has known the applicant since 1998. [REDACTED] states that the applicant has been her customer since 1998. [REDACTED] states that she has known the applicant since January 15, 1999. However, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. Furthermore, [REDACTED] can only attest to the applicant's presence in the United States since January 5, 1999.

Neither the money order receipts nor the various retail store receipts bear the applicant's name or indicate any connection to the applicant. Therefore, the receipts are of no probative value. One of the money transfer receipts indicates a date of March 4, 1998, and is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, this evidence is of little or no probative value.

The applicant has not submitted sufficient evidence to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. She has, therefore, 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 these grounds will also be affirmed.

It is further noted that the applicant provided a photocopy of the first page of her passport in an attempt to establish her nationality and her identification. However, the passport was signed by the applicant and issued in Honduras on January 2, 1999. This is further evidence that the applicant has not met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c)

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 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.