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

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FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

[EAC 06 200 51454]

Date: NOV 06 2007

IN RE:

Applicant:

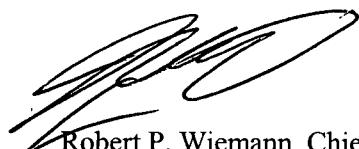
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APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a native and citizen of Honduras who seeks 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 that she is eligible for TPS and submits additional evidence relating to her residence and physical presence in the United States,

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 reparation; 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.

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

The burden of proof is on 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 record reflects that the applicant filed her initial TPS application on July 3, 2003 – almost four years after the close of the initial registration period for Hondurans. In support of her application, the applicant submitted a copy of her birth certificate with accompanying translation, a copy of her child's Maryland birth certificate, a copy of her child's Social Security card, a copy of a residential lease dated August 1998.

On August 28, 2003, the director requested that the applicant submit evidence establishing her eligibility under the late initial registration provisions and establishing her qualifying continuous residence and continuous physical presence. The applicant did not respond to the director's request. On December 10, 2003, the director denied the application, finding that the applicant failed to establish her eligibility for late registration under 8 C.F.R. § 244.2(f)(2).

On June 22, 2006, the applicant filed the current TPS application. On November 1, 2006, the director denied the application, finding that the applicant had failed to submit adequate evidence to show that she was eligible for TPS under the late registration provisions.

On appeal, the applicant reasserts her eligibility and submits additional documentation as well as previously submitted documentation relating to her residence and physical presence.

While the applicant has submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence, none of the documentation submitted overcomes the applicant's failure to file her TPS application within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this basis will be affirmed.

Beyond the decision of the director, the evidence fails to establish the applicant's qualifying residence and continuous physical presence. The documentation submitted on appeal only establishes residence and physical presence since about February 2000. The only document submitted to show continuous residence and continuous physical presence before 2000, is a copy of a residential lease. That lease is of little probative value and can be given little evidentiary weight. The lease is not substantiated by payment records such as rent receipts. In addition, the applicant has not submitted any other documentation to show continuous residence or continuous physical presence before 2000. It is reasonable to assume that an individual who has resided and remained physically present for the requisite period in question would be able to submit corroborative documentary evidence.

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001. 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 application must also be denied on these grounds.

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 cited 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.