

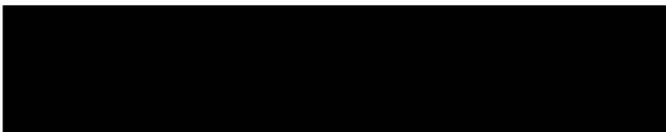
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

M,



FILE:



[EAC 02 241 53682]

OFFICE: Vermont Service Center

Date: **JUL 22 2008**

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, Vermont Service Center, and 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 is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed her TPS application on July 3, 2002, under receipt number EAC 02 241 53682. The Director, Vermont Service Center, (VSC), denied that application on January 13, 2003. A subsequent appeal of the director's decision was remanded by the AAO on June 29, 2004, due to the director's failure to explain in writing the specific reasons for denial. On October 19, 2007, the applicant was requested by the Service to submit additional evidence. On December 20, 2007, the Director, VSC, denied that application because the applicant failed to establish that she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant states that she is the daughter of [REDACTED], a TPS registrant. She further elaborates on the different names that her father had used and provided explanation for other discrepancies that the director had pointed out in his decision.

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.

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 designation of TPS for Hondurans has been extended several times, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite time period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on July 3, 2002.

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 proceedings 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 she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On October 19, 2007, 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. The applicant, in response, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on December 20, 2007.

On appeal, the applicant states that she is “the single daughter of a lawful applicant” and is eligible for TPS.

The applicant submitted a copy of her father’s employment authorization card, a copy of his driver’s license from the Commonwealth of Massachusetts; a copy of his Social Security Card; and, a copy of his health insurance card from United Healthcare. However, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status 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 8 C.F.R. § 244.2(f)(2). It is also noted on appeal that the applicant submitted an explanation addressing some of the director’s concerns in the Notice of Decision regarding her father’s use of different names and Social Security numbers. While the applicant appeared to be the “single daughter of a lawful applicant”, the applicant does not appear to be eligible to register for TPS under the late initial registration provisions under condition (iv). To be eligible under condition (iv) listed above, the applicant must have been a “child under 21.” The applicant was 25 years old at the time of the initial registration period and would not qualify as a “child”. Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is 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.

On appeal, the applicant states that she arrived in the United States on or about November of 1998 and has resided continuously and permanently since that date. The applicant, in addition, submits the following documentation:

1. A copy of an apartment lease contract signed July 1, 1999;
2. An affidavit from Mrs. [REDACTED] and a copy of her ID card from the Commonwealth of Massachusetts, attesting that she has known the applicant since 1999;

3. A statement from Massachusetts General Hospital showing that the applicant was registered on June 21, 2000;
4. A copy of a Registration Record from Massachusetts General Hospital dated February 4, 2001;
5. A copy of a Health/Medical record dated June 21, 2000;
6. Copies of the applicant's Social Security Card and employment authorization card;
7. A letter from [REDACTED] MSW, LICSW, of Massachusetts General Hospital (MGH) Chelsea, HealthCare Center dated January 18, 2008, attesting that the applicant has been a patient at the MGH Chelsea since 2001;
8. A copy of the applicant's W-2, Wage and Tax Statement, for the year 2005;
9. A copy of a birth certificate for the applicant's son who was born on August 25, 2002;
10. A copy of the applicant's brother's employment authorization card;
11. A copy of the applicant's Income Tax Return for the year 2005;
12. A copy of the applicant's Honduran passport issued in New York on August 25, 2001;
13. A copy of a pay stub from Demoulas Supermarkets, Inc. dated November 13, 2004;
14. A copy of an affidavit from [REDACTED] dated May 23, 2002, attesting that she had known the applicant since November of 1998;
15. A copy of an affidavit from [REDACTED] dated June 1, 2002, attesting to have known the applicant since November of 1998;
16. A copy of the applicant's father's Social Security Statement dated April 15, 2002;
17. A copy of the address portion of the applicant's father's U.S. Individual Income Tax Return, for the year 2002;
18. A copy of the applicant's marriage certificate issued on November 16, 2007; and,
19. A copy of the applicant's husband's employment authorization card.

The apartment lease statement listed the applicant as one of the residents, but even in a light most favorable to the applicant the earliest date covered is July 1, 1999. Furthermore, a statement from Massachusetts General Hospital (MGH) shows that the applicant was registered on June 21, 2000, with a Registration Record from GMH dated February 4, 2001, and a letter from [REDACTED], MSW, LICSW, of MGH Chelsea, HealthCare Center dated January 18, 2008, attesting that the applicant has been a patient at the MGH Chelsea since 2001. The applicant also submitted a copy of the birth certificate of her son who was born on August 25, 2002, and a copy of her W-2, Wage and Tax Statement, for the year 2005, in an attempt to establish her qualifying continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. This evidence, however, does not cover the entire period.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the requisite period. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support her assertions of being in the United States during the requisite time period since she claimed to have been present since November of 1998. Although the affiants state in the affidavits that they have known the applicant to be present in the United States since 1998, there has been no corroborative evidence submitted to substantiate their assertions. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by church, unions, or other organizations of the applicant's residence as specifically described in 8 C.F.R. §244.9(a)(2)(i) and (v). The

applicant 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 TPS on these grounds will also 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.