

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



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

M1



FILE: [REDACTED]  
[LIN 00 231 52304]

Office: Nebraska Service Center

Date: APR 15 2005

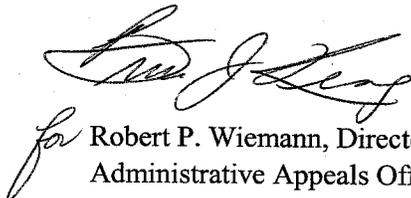
IN RE: Applicant: [REDACTED]

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.

  
for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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 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 director denied the application after determining that the applicant had abandoned her application by failing to respond to a request for evidence.

The record reveals that the applicant filed her initial application [LIN 00 231 52304] with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on May 25, 2000. That application was denied on May 1, 2001, for failure to respond to a request for evidence to establish her eligibility for TPS. The applicant filed a motion to reopen her application on May 31, 2001. The director dismissed the motion on February 1, 2002. The applicant filed a subsequent motion to reopen her application on January 17, 2003. The director dismissed the second motion on May 6, 2003.

On May 22, 2003, the applicant filed an appeal from the director's decision which is now before the AAO.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, [LIN 03 093 50407] on January 21, 2003. On May 6, 2003, the director requested the applicant to submit evidence establishing her date of entry into the United States as of December 30, 1998, her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999, to the date of filing her application. It is noted that the director of the Nebraska Service Center dismissed the second motion and sent the request for evidence to the applicant on the same date of May 6, 2003. The applicant states in her appeal that she is appealing the director's May 6, 2003 decision that dismissed the second motion.

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, 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.

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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2006, 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 her application with Citizenship and Immigration Services (CIS), on May 25, 2000.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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. 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 applicant states, in her motion, that she entered the United States in June 1990, as a visitor. She also states in her motion that she was married on June 15, 1995; however, she does not know her husband's whereabouts and that she is filing for a divorce. The applicant also states that she is currently living with her fiancé who she claims is a TPS registrant. In addition, she provides the following documentation along with her appeal: a copy of the director's notice to the applicant dismissing her second motion dated May 6, 2003; copies of receipt notices from the Service dated May 25, 2000, for her temporary protected status and employment authorization applications; copies of receipt notices dated May 31, 2001 and January 21, 2003, for her motion to reopen her TPS application; copies of receipt notices dated August 10, 2000 and January 29, 2003, for her fingerprint processing fee; a copy of the director's May 6, 2003, request for evidence on her second TPS application [LIN 03 093 50407]; a copy of her birth certificate along with an English translation; a copy of her Illinois Drivers License issued on April 10, 2001; a copy of her Social Security card; a copy of her Honduran personal identification card; a copy of a handwritten rent receipt dated October 31, 1994; copies of a Ameritech deposit receipt dated November 3, 1995; a copy of her marriage certificate reflecting that she was married to [REDACTED] on June 14, 1995 in Waukegan, Illinois; copies of her earnings statements from Lacosta, Inc., dated April 14, 1996 and July 7, 1996; copies of the birth certificates for her daughters born on November 12, 1996 and November 22, 2000; copies of her daughters' Social Security cards; copies of AT&T statement reflecting service dates from February 26 to March 25, 2000; a copy of her Ameritech statement dated March 1, 2000; a copy of a letter dated May 10, 1999,

from Lt. Sroka, Traffic Commander of the City of Waukegan; a copy of an earnings statement dated January 29, 1999, from LBR Consolidated Services; copies of receipts dated April 17, 1998, July 25, 1999 and August 12, 1999; and a copy of her auto insurance policy declarations page dated April 3, 1998.

The first 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, to the date of filing her application.

On appeal, the applicant submits evidence to establish her continuous residence and continuous physical presence in the United States during the requisite periods. A review of the evidence submitted on appeal and contained in the record reflects that the applicant has maintained 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 her application.

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

The applicant's motion to reopen consists of documentation relating to her claim of continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999, to the date of filing her application. However, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status within the initial registration period. Although the applicant provides a copy of her marriage certificate, she does not provide any evidence that her husband is an eligible TPS registrant. It is noted that the applicant states, on appeal, that her husband's TPS application is still pending with the Service since 1997, and that she does not know his whereabouts. In addition, she claims that she is living with another person, her fiancé, who is also the father of her two children. However, 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). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

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.