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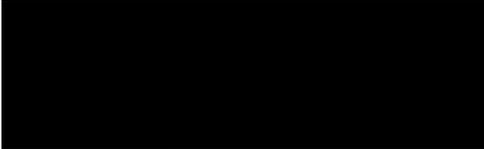
U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

MI



FILE:



Office: NEBRASKA SERVICE CENTER

Date: JAN 24 2005

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.

Robert P. Wiemann for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A motion to reopen, filed by the applicant, was granted by the director and he again denied the application. The applicant appealed the director's decision on the motion. This matter is now before the Administrative Appeals Office 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 director initially 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 motion, the director found that the grounds of denial had not been overcome.

On appeal, the applicant states that she is a single parent and needs to work.

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, 2006, 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 her initial TPS application on July 7, 2003.

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 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 July 23, 2003 to submit evidence establishing her qualifying residence and physical presence in the United States. In response, the applicant submitted the following documentation:

1. A copy of a statement from Price Property Management dated September 26, 2002, a copy of a lease dated September 27, 2002, and a copy of a lease dated June 11, 2003.
2. A copy of a monthly statement from Indianapolis Water showing a billing date of June 18, 2003, a utility billing summary dated June 12, 2003, and a Citizens Gas & Coke Utility bill with a due date of July 17, 2003.

3. Copies of receipts dated September 6, 2000, April 15, 2003, and an undated receipt.

The evidence provided by the applicant indicates her presence in the United States subsequent to the qualifying dates to establish continuous residence and continuous physical presence in the United States.

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 motion, the applicant furnished:

1. Copies of money wire transfer receipts dated November 16, 1998, December 13, 1998, and March 4, 1999.
2. Copies of a State of Illinois Department of Human Services Notice of Decision dated June 30, 1999, Request for Employment Verification dated April 21, 1999, Certificates of Live Birth of children born to the applicant, with dates of births of November 2, 1989 in Chicago, Illinois, and December 31, 1998, in Marion County, Indiana.
3. A copy of a University of Illinois at Chicago Consent for Release of Confidential Information dated October 7, 1991.
4. A copy of an application for Hoosier Healthwise dated July 30, 1998.
5. A copy of a Community Hospital Indianapolis Discharge Instruction Sheet dated April 16, 1999.
6. A copy of a July 30, 1998 document in Spanish.
7. A copy of a letter from Dr. [REDACTED] dated April 5, 1999, and a Physician's Report from Dr. [REDACTED] dated April 14, 1999.
8. A copy of a letter from [REDACTED] dated September 22, 2003.
9. A copy of an Indiana Officer's Standard Crash Report dated March 19, 1999.
10. A letter from [REDACTED] dated September 22, 2003.

In her statement, Ms. [REDACTED] claims that she has known the applicant since 1997. However, the statement is 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 presence.

The director found that the grounds of denial had not been overcome. The director, therefore denied the motion.

On appeal, the applicant furnished:

1. A copy of a statement from Indiana Family and Social Services Administration dated October 12,

2001.

2. A copy of an Authorization of Care/Release of Information and Assignment of Benefits dated February 11, 2001.
3. Copies of billing statements dated September 23, 1999 and February 16, 2000.
4. Copies of handwritten receipts dated November 8, 1998, January 25, 1999, November 4, 1999 and July 5, 2000.
5. Copies of Clarian Home Care Benefits and Client Consent/Agreement, both dated January 3, 1999.

These documents establish that the applicant continuously resided in the United States since December 30, 1998. The applicant has submitted sufficient evidence 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 this ground will be withdrawn.

The second 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. *See* 8 C.F.R. § 244.2(g).

On July 23, 2003, 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 identity, her residence in the United States since December 30, 1998, and her physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish her residence and physical presence in the United States. The applicant did not present any evidence of her eligibility for late registration. The applicant also failed to provide proof of her identity. Therefore, the director denied the application.

The applicant filed an untimely appeal and the director treated the submission as a motion to reopen.

On motion, the applicant provided a statement in Spanish with no English translation. The applicant also provided additional evidence in an attempt to establish her continuous residence and physical presence in the United States during the qualifying period. The director found that the applicant had not established eligibility for late initial registration and also denied the application for this reason.

On appeal of the motion, the applicant provides 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 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 failed to establish her eligibility for late registration will be affirmed.

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.