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U.S. Citizenship
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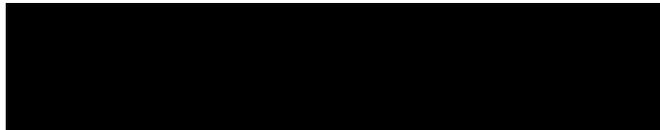


Office: TEXAS SERVICE CENTER

Date: JUL 05 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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 director denied the application because the applicant failed to establish that she had: 1) continuously resided in the United States since December 30, 1998; and 2) been continuously physically present in the United States since January 5, 1999.

On appeal, the applicant submits a statement and additional evidence.

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 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.

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. 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 time period.

The burden of proof is upon the applicant to establish that 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

On January 6, 2004, 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 continuous residence in the United States since December 30, 1998. The applicant, in response, provided photocopies of the following documentation:

1. Her State of Florida Identification Card issued on July 18, 2003;
2. The biographic page of her Honduran passport issued on October 30, 2002, by the Consulate General, Miami, Florida;
3. Partial Bell South billing statements dated January 14, 1999, February 14, 1999, April 14, 1999, July 14, 1999, and December 14, 1999; and,
4. Miami-Dade Water and Sewer Department billing statements dated April 5, 1999 and July 5, 1999.

The director determined that the applicant had failed to submit 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, and denied the application on March 24, 2004. The director noted that while her case was being processed, the A-file record was received, containing a Warrant of Removal indicating she had entered the United States without inspection on April 24, 2000.

On appeal, the applicant reasserts her claim. She states that she has lived here since 1998, and would like the "[o]ppportunity to continue being legal in this country in which with a lot of difficulty [she has] lived here without having the [o]ppportunity of being employed and also given the chance to pay [her] taxes." She states that the record indicates an entry on April 24, 2000, because she had an emergency with her mother in Honduras. In support of the appeal she submits a letter dated February 16, 2000, under the name of Dr. [REDACTED] [REDACTED] stating that the applicant's mother was hospitalized and that the applicant's presence in Honduras was required in order to make further decisions and cover the medical expenses.

According to the applicant's statements taken at the time of her apprehension by the United States Border Patrol at or near Brownsville, Texas, on April 24, 2000, as recorded on the Form I-213, Record of Deportable/Inadmissible Alien, the applicant made no claim of prior residence in the United States, and stated that she was coming to the United States in order to seek employment and to live with her common law husband. It is also noted that the submitted billing statements dated in 1999 appear to have been altered. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the altered documentation. Therefore, the reliability of the remaining evidence offered by the applicant, including the doctor's letter submitted on appeal is suspect, and it must be concluded that the applicant has failed to establish her qualifying continuous residence and continuous physical presence in the United States during the entirety of the requisite periods. She has, thereby, 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 will be affirmed.

Beyond the decision of the director, the applicant also has not established her eligibility for late initial registration. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS), on July 3, 2003. 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) or (g), and the application must also be denied for this reason.



It is noted that the record contains a Warrant of Removal issued at Harlingen, Texas, on December 19, 2000, following the final order of removal to Honduras issued by the Immigration Judge, Harlingen, Texas, on December 8, 2000.

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.