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U.S. Citizenship  
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Services

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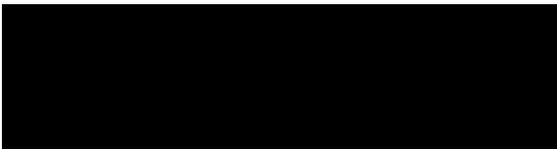
[REDACTED]  
[SRC 03 206 55379]

Office: TEXAS SERVICE CENTER

Date: JUN 07 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:



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.

*Cindy M. Gomez for*

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 was eligible for late registration.

On appeal, the applicant submits a statement.

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 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 21, 2003. It is noted that the applicant checked the box indicating that this was an application for annual re-registration. The record, however, does not contain any evidence establishing that the applicant had filed a previous application for TPS. The applicant also did not provide any evidence to establish that she had registered for TPS earlier. Therefore, this must be considered as an initial application for TPS.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, 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 late initial registration. 8 C.F.R. § 244.2(g).

On September 26, 2003, 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 the following documentation:

1. A lease agreement dated February 15, 1998;
2. Another copy of her Honduran birth certificate, with English translation;
3. The biographic page of her Honduran passport issued on June 15, 1999, apparently in Honduras;
4. A letter dated October 17, 2003, from the President, National Building Janitorial, Inc., of an unspecified location, stating that the applicant has been an employee of the company since June 15, 1999;
5. A letter dated October 17, 2003, from [REDACTED] of an unspecified location, stating that he has known the applicant since 1999, and believes that she has lived in the Florida Keys since that time; and,
6. A letter dated October 17, 2003, from the applicant stating that she entered the United States in December 1998, and that she does not have evidence of her presence here "from [J]anuary 05-[A]ugust 20 of the year 1999," because she did not have identification or permission to work during that time. The applicant also asks that her case be approved on a humanitarian basis.

It is noted that with the initial TPS application, the applicant also provided photocopies of: her birth certificate, with English translation; her State of Florida Identification Card issued on November 15, 2002, with a duplicate on April 11, 2003; her State of Florida "Learner" License issued on April 11, 2003; and, a CIS receipt notice dated June 6, 2002, for a Form I-765, Application for Employment Authorization, [SRC 02 191 52259], received on June 5, 2002, requesting employment authorization under Category C08.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on November 14, 2003.

On appeal, the applicant states that she would like to be given "the opportunity to continue being legal in this country in which a lot of difficulty [sic] [she has] lived here having the opportunity of being employed and also given the chance to pay taxes." She states that she has been living in the United States since 1998, and would like another chance to be legal and have a better job. The applicant submits two unsigned letters in her name, dated November 25, 2003, and November 27, 2003. The first letter indicates that she is attaching a copy of her Form I-821, Application for Temporary Protected Status, and two letters, including one from the Honduran Embassy and another from the director of CIS; however, no documents are attached to the letter. In the second letter, the applicant submits another copy of the letter detailed at Number 6 above, now dated November 27, 2003. The applicant does not submit any additional evidence in support of the appeal.

The applicant previously submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821, within the initial registration period. The applicant submitted a CIS receipt notice

dated June 6, 2002, for an employment authorization application, [SRC 02 191 52259], requesting employment authorization under Category C08. It is noted that Category C08 pertains to individuals with a pending asylum application. The records of CIS reflect that the request for employment authorization under Category C08 was not approved. The applicant also did not submit any evidence of having filed an application for asylum. The record does not contain evidence of an asylum application, and the records of CIS do not reflect an asylum application under this A-number, or under the applicant's name and date of birth as provided in these documents. 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 decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient credible 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. The employer letter at Number 4 above does not conform to the regulatory requirements at 8 C.F.R. § 244.9 (a)(2)(i)(A) through (D), and, therefore, has limited evidentiary value. In addition, the regulations do not provide that character references from acquaintances, such as that listed at Number 5 above, are sufficient for establishing continuous residence and continuous physical presence in the United States. It is also noted that the applicant's passport was issued on June 15, 1999, and bears the stamp of an issuing authority in Honduras, indicating that the applicant has not continuously resided and been continuously physically present in the United States during the entirety of the requisite periods.

The lease document, at Number 1 above, is written in ink as an original, but does not bear the signature of the applicant. In addition, the document indicates that the lease began in February 1998, ten months preceding the applicant's stated date of entry into the United States. 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, therefore, has failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

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.