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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: OCT 03 2005  
[EAC 03 189 50135]

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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and 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 denied the application because the applicant had failed to establish that she: (1) was eligible for late registration; and (2) had been continuously physically present in the United States from January 5, 1999, to the date of filing her application.

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 alien 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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 shows that the applicant filed her TPS application on June 5, 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 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).

In a notice of intent to deny dated June 24, 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 director determined that the applicant had failed to respond to his request for additional evidence and denied the application on February 3, 2004.

On appeal, the applicant asserts that she "applied for TPS under late initial registration as the child of a person who had already been granted TPS and is from Honduras." To establish her assertion, she submits a copy of Form I-797C, Notice of Action, dated April 29, 2000, indicating that Juana C. Posas (the applicant's mother) was granted TPS.

The record reflects that the applicant was born on February 9, 1975. Section 101(b)(1) of the Act defines the term "child" to mean an unmarried person under 21 years of age. The applicant was over the age of 21 years when her mother filed her TPS application on June 2, 1999; therefore, she does not meet the definition of "child" as defined in section 101(b)(1) of the Act. Accordingly, the applicant, during the initial registration period, did not meet the qualification of a child of an alien currently eligible to be a TPS registrant described in 8 C.F.R. § 244.2(f)(2)(iv).

The applicant has failed 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 TPS application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established continuous physical presence in the United States from January 5, 1999, to the date of filing the application.

The record shows that the applicant submitted the following documents with her TPS application in an attempt to establish continuous residence and continuous physical presence in the United States:

- (1) Copies of medical history report, immunization report, prenatal appointment book, and hospital "Bassinets Cards" reflecting the dates from October 29, 1996 through July 15, 1999, inclusive.
- (2) Copies of receipts from Urgente Express dated June 16, 1998, and August 24, 1999.
- (3) Copies of six TravelersExpressMoneyGram receipts, two dated September 18, 1999 and October 27, 2001, and the remaining four are illegible.
- (4) A copy of a Verizon statement dated February 7, 2001.
- (5) A copy of the biographical page of her Honduran passport issued in New York on February 13, 2001.
- (6) Receipts for Western Union Money Transfer dated August 9, 2002 and August 16, 2002.

In a notice of intent to deny dated June 24, 2003, the applicant was requested to submit additional evidence to establish that she had been continuously physically present in the United States from January 5, 1999, to the date of filing her TPS application. The director determined that the applicant had failed to respond to his request for additional evidence and denied the application on February 3, 2004.

On appeal, the applicant submits copies of medical and history report and prenatal appointment book listed as part of No. 1 above, including the following:

- (7) An affidavit from [REDACTED] Pastor, Pentecostal Evangelist Church, Brooklyn, New York, certifying that the applicant "has been visiting our church since 1998."
- (8) A copy of the birth certificate of her son dated September 11, 1998.
- (9) Copies of receipts from Urgente Express dated December 12, 1997; September 18, 1998; July 5, 1999; September 18, 1999; and October 24, 1999.

The affidavit from [REDACTED] (No. 7 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically the pastor does not explain the origin of the information to which he attests, and how he knows the applicant. Additionally, the pastor failed to show inclusive dates of the applicant's membership at the church, and the address where the applicant resided during the membership period. Furthermore, the affidavit, without supporting documentary evidence, is insufficient to establish that the applicant has been continuously physically present since January 5, 1999.

Documentation furnished indicates that the applicant was present in the United States prior to the date required to establish continuous residence, from 1996 through October 1999. While documents listed as Nos. 4, 5, and 6 above indicate that the applicant was present in the United States in February 2001 and August 2002, no other documents were furnished to establish continuous physical presence after October 1999 to the date the applicant filed her application on June 5, 2003.

The applicant has furnished insufficient evidence to establish that she has met the criteria for continuous physical presence described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the TPS application on this ground 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 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.