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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 06 257 80563]

OFFICE: VERMONT SERVICE CENTER

Date: **OCT 04 2007**

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

The director denied the application because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts her claim of eligibility for TPS.

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 of a 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 Temporary Protected Status 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.

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 January 5, 2009, upon the applicant's re-registration during the requisite 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 June 14, 2006.

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 applicant submitted a copy of her Honduran birth certificate along with English translations and a copy of her father's Employment Authorization card along with her TPS application.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on December 29, 2006.

On appeal, the applicant reasserts her claim of eligibility for TPS and submits the following documentation:

1. An affidavit dated January 22, 2006, from [REDACTED] and [REDACTED] in which they stated that they have known the applicant and her parents for at least 8 years;
2. A letter from the principal of Hackettstown High School in which she stated that the applicant was currently enrolled as a full-time student at the school and was completing courses for her graduation from the 12th grade; and,
3. Copies of family photographs.

The applicant has not submitted any evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant submitted an affidavit in an effort to establish her residence and physical presence in the United States during the requisite time periods. Although the affiant states in the affidavit that they have known the applicant to be present in the United States since 1999, there has been no corroborative evidence to substantiate their assertions. The applicant claims to have been present in the United States since December 1999. It is reasonable to expect that she would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's continuous residence and continuous physical presence in the United States. There is no indication from the school principal's letter how long the applicant has been attending school in this country.

It is noted that the applicant stated in her Form I-821, Application for Temporary Protected Status, that she entered the United States in December of 1999, which is subsequent to the requisite time periods of December 30, 1998, and January 5, 1999.

It is further noted that the Record of Deportable/Inadmissible Alien shows that the applicant was apprehended by United States Border Patrol officers on May 9, 2004, after illegally entering into the country by walking through a wooded path that circles the Mexican checkpoint at Chiapas, Mexico. The applicant stated in the application that she and her grandmother left Honduras on April 12, 2004, and traveled by bus to Guatemala where they entered via a visitor's pass. The applicant further stated that she and her grandmother arrived in Mexico from Guatemala on May 1, 2004, and continued by bus to the border of the United States, arriving on May 9, 2004. The applicant further stated that upon arriving at the United States border they waded across the Rio Grande River, located 2 miles west of the Gateway Port of Entry in Brownsville, Texas. The record of proceeding contains a photograph and fingerprints that were taken from the applicant at the time that she was apprehended.

The applicant has failed to establish that she has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that a warrant of deportation, dated November 1, 2004, for the removal of the applicant from the United States to Honduras, remains outstanding.

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.