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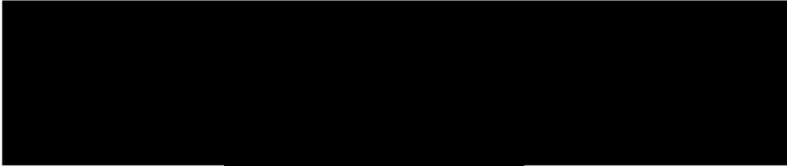
U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[EAC 07 284 71921]

OFFICE: Vermont Service Center

Date: FEB 19 2008

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

for 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.

The record reveals that the applicant filed Form I-821, Application for Temporary Protected Status on May 31, 2002 and March 25, 2004, under CIS receipts number EAC 02 208 50839 and EAC 04 130 51955, respectively. The director denied the applications on December 3, 2004 because the applicant failed to establish her eligibility for late registration, her continuous residence since January 5, 1999, and her continuous physical presence in the United States as of December 30, 1998. It is noted that on her Form I-821, the applicant indicated that she entered into the United States in March of 2002. Although the applicant was advised that she could appeal the director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B.

The applicant filed the current TPS application, EAC 07 284 71921, on July 5, 2007 as a new application. The director denied the application on August 28, 2007 because the applicant failed to establish that she was eligible to take advantage of the late registration provision of the TPS regulations. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant's father asserts the applicant's eligibility for TPS and submits additional evidence in support of her claim.

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. The designation of TPS for Hondurans has been extended several times, with the latest extension valid until January 5, 2009, 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 this application with Citizenship and Immigration Services (CIS) on July 5, 2007.

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 proceedings 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 she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above. A review of the record reveals that the applicant is a child of the TPS registrant, and as such, is eligible for late registration. Therefore, the director's decision on this ground will be withdrawn.

The second 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. The applicant submitted the following documentation:

1. A copy of a Kindergarten Certificate given to [REDACTED] on June 19, 2002;
2. Copies of Honor Roll certificates from Public School #1, presented to [REDACTED] on April 19, 2005, May 18, 2005, and June 20, 2007;
3. A copy of a Certificate of Appreciation awarded to [REDACTED] on March 24, 2006;
4. A copy of a Certificate of Participation from The Visual & Performing Arts Department of the Jersey City Public Schools presented to [REDACTED] on March 2006;
5. A copy of the applicant's father's EAD Card;
6. A copy of the applicant's father's New Jersey Driver License;
7. A copy of the applicant's Honduran passport; and,
8. A copy of the applicant's birth certificate and English translation

The applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on August 28, 2007.

On appeal, the applicant's father asks CIS to review his daughter's TPS application and submits the applicant's birth certificate and copies of certificates of completion from various schools.

While the child of an eligible TPS registrant is eligible to submit a late initial registration, these regulations do not relax the requirements for eligibility for TPS. The child is still required to meet the continuous residence and the continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). The applicant stated on her TPS applications that she arrived in the United States in 2002. The record reveals that the applicant was apprehended by the U.S. Border Patrol as she attempted to enter the United States on March 18, 2002, which is subsequent to the eligibility period. Consequently, the applicant did not reside in the United States as of December 30, 1998, and was not physically present in the United States from January 5, 1999 to the filing date of

this application. Therefore, she could not have satisfied the continuous residence and continuous physical presence requirements. The director's decision to deny the application for temporary protected status will 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 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.