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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



M₁

DATE:
FEB 08 2012

Office: VERMONT SERVICE CENTER

FILE:

IN RE: Applicant:

APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

for Perry Rhew
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 claims to be a 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. 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, counsel asserts that the director did not take into consideration the documents submitted at the time the TPS application was filed. Counsel asserts that these documents along with the subsequent evidence submitted are sufficient to establish the applicant's continuous residence and physical presence in the United States. Counsel submits additional documents in an attempt to establish the applicant's continuous residence and physical presence in the United States.

Counsel indicates at Part 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.¹ However, more than nine months later, no additional correspondence has been presented by counsel or the applicant.

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 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 Secretary 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

¹ Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

- (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 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.

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.

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 July 5, 2013, upon the applicant's re-registration during the requisite time period.

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 U.S. Citizenship and Immigration Services (USCIS). 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 AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The first and second issues in this proceeding are 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.

At the time the applicant filed her TPS application, she submitted:

- An affidavit notarized June 18, 2010, from [REDACTED] of Buford, Georgia, who attested to knowing the applicant since 1998. The affiant indicated that she and the applicant resided in the same apartment complex, [REDACTED] and were next door neighbors. The affiant indicated that she and the applicant attend the same church and that the applicant has gone to church with her almost every Saturday since 1998.
- A letter dated June 20, 2010, from [REDACTED] in Buford, Georgia, who indicated that the applicant has been a member of its church since 1998.
- Her daughter's birth certificate, who was born on November 16, 2001, in [REDACTED] County, Georgia.
- An earnings statement dated November 10, 2000.
- A notarized affidavit from [REDACTED] who indicated that she has known the applicant since February 1999. The affiant indicated that she was the applicant's supervisor at the time of her employment at [REDACTED] of Georgia.
- Notarized affidavits from [REDACTED] who attested to knowing the applicant since January 1999 and March 1999, respectively. [REDACTED] indicated that the applicant took care of her daughter two days a week and has kept in contact with the applicant since that time. [REDACTED] indicated that the applicant shops at his supermarket at [REDACTED] Buford, Georgia almost every day.
- Notarized affidavits from [REDACTED] who indicated that they have known the applicant since June 1998. The affiants indicated the applicant is the mother of their granddaughter, who was born on September 16th.
- Affidavits from [REDACTED] who indicated that they have known the applicant since November 1998 and December 1998, respectively.
- An affidavit from [REDACTED] of Winder Georgia, who attested to the applicant's seven year residence at [REDACTED]

On November 22, 2010, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided:

- An amended birth certificate for the daughter who was born on November 16, 2001.²
- An additional affidavit from [REDACTED] who reaffirmed the applicant's residence at [REDACTED] Buford, Georgia from 1998 through 2008.
- An affidavit from an affiant attesting to the applicant's residence at [REDACTED] Buford, Georgia from 2005 to 2007. It is noted that the affiant's name is indecipherable.
- An affidavit from an affiant attesting to the applicant's residence at [REDACTED] Buford from January 1, 2008 through January 4, 2010. It is noted that the affiant's name is indecipherable.
- A notarized affidavit from [REDACTED] who attested to the applicant's employment at [REDACTED] in Buford, Georgia until April 1, 2009. The affiant indicated that the applicant continued her employment at the [REDACTED] in Buford, Georgia on April 5, 2009, where she is still employed.
- A rental agreement entered into on January 3, 2010, between [REDACTED] and the applicant.

The director determined that the documents submitted only serve to establish the applicant was in the United States during several periods. The director concluded that the evidence submitted was insufficient to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on March 11, 2011.

On appeal, counsel submits an earnings statement dated May 16, 1999, and documents counsel indicates are "Postal route statements" for 2001 to 2010.

The AAO finds that the documents submitted are not sufficient, reasonable, substantial, and probative to support a claim of continuous residence and continuous physical presence in the United States during the requisite periods. Specifically:

- The employment affidavits from the affiants have little probative value as they failed to include the applicant's address at the time of employment and the exact periods of employment as required under 8 C.F.R. § 244.9(a)(2)(i). In addition, no supporting evidence such as pay stubs, wage and tax statements, or a printout of her earnings from the Social Security Administration was submitted. It is reasonable

² The applicant's date of birth listed on the initial birth certificate for her daughter did not match her birth date indicated on her TPS application.

to expect the applicant to have pay stubs to support the claim of the employment [REDACTED] attested to.

- The two pay stubs submitted only establish that the applicant was present in the United States during a two-week period prior to issuance of each pay stub. It is unclear why the applicant would only present two pay stubs issued in 1999 and 2000, but none for 1998 and subsequent years.
- The letter from [REDACTED] has little evidentiary weight or probative value as it does not conform to the basic requirements specified in 8 C.F.R. § 244.9(a)(2)(v). Most importantly, the pastor does not explain the origin of the information to which he attests.
- The affidavits from [REDACTED] lacked probative value as no evidence such as a lease agreement, rent receipts or utility statements has been submitted to corroborate the affidavits. Likewise, the affidavits attesting to the applicant's other residences have little probative value as no corroborating evidence was submitted.
- [REDACTED] indicate that the applicant is the mother of their grandchild who was born on September 16th. However, the date of birth listed on the birth certificate of the applicant's daughter does not coincide with this date.
- Without proper identification from the authorizing authority, the "postal route statements" have no probative value or evidentiary weight.

Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Without corroborating evidence to support the applicant's claimed employment and residence the remaining affidavits presented throughout the application process are insufficient to establish continuous residence in the United States since December 30, 1998 and continuous physical presence since January 5, 1999. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence and continuous physical presence since March 9, 2001, seriously detracts from the credibility of her claim. The applicant has, therefore, 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 TPS on these grounds will be affirmed.

The third issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. 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. The record reveals that the applicant filed this application on June 29, 2010.

The applicant was requested on November 22, 2010, to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, only provided documentation relating to her residence and physical presence in the United States.

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

On appeal, the applicant neither addresses the finding of her ineligibility as a late registrant nor provides any evidence to establish her eligibility as a late registrant. The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that she has met one of those provisions outlined in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration 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.