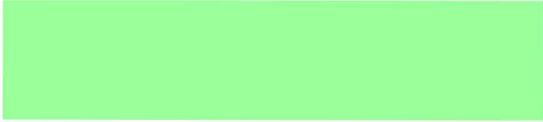




U.S. Citizenship
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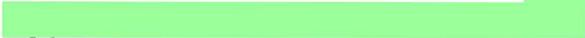


DATE: **FEB 14 2014**

Office: VERMONT SERVICE CENTER



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: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
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 denied the application because 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 states that she has continuously resided in the United States since 1991. The applicant states that during the initial registration period she was unable to apply for the benefit sought due for financial reasons. The applicant submits additional evidence in an attempt to establish her residence and physical presence in the United States during the requisite periods.

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
 - (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 January 5, 2015, 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 first and second issues to be addressed 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.

Along with the TPS application, the applicant submitted the following:

- Her children's birth certificates who were born in 1992, 1996 and 2009.
- Her marriage license indicating she was married on April 27, 1996 in [REDACTED] Texas.
- A letter and billing statements from [REDACTED] dated May 17, 2008, December 17, 2009, and November 17, 2010.
- A billing statement from [REDACTED] dated September 21, 2005.
- Her child's Medicaid identifications from the [REDACTED] for the periods September 19, 1999 through October 31, 1999, December 17, 2000 through January 31, 2001, May 18, 2002 through June 30, 2002, November 15, 2003 through December 31, 2003, and January 17, 2004 through February 19, 2004.
- Documents from the [REDACTED] dated in 1996 and 2000.
- Identification cards issued by the [REDACTED] which expired on January 11, 1997 and January 11, 2006.
- A letter dated November 28, 2011, from a social worker at [REDACTED] [REDACTED] indicating she met the applicant in August 1996 and had worked with the applicant and her family until 2004.
- Rent receipts with no year listed.
- U.S. Individual Income Tax Returns, Form 1040A, for 2005, 2006, 2008, 2009 and 2010.

On June 25, 2012, the applicant was advised that the above documents were not sufficient and was requested to submit additional evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted copies of the documents that were previously provided along with:

- An additional letter dated July 19, 2012, from the social worker at [REDACTED] Hospital, who reiterated her work with the applicant and her family from August 1996 until the applicant's move to Virginia in 2004.
- An envelope postmarked in July 1998 and addressed to the applicant's residence in [REDACTED]
- A letter dated November 6, 1998 from an attorney.
- A letter dated August 24, 2011 from a representative of [REDACTED] Services in [REDACTED] who indicated that the applicant's child has been under medical care since October 31, 2005.
- An affidavit dated February 27, 2012, from [REDACTED] who indicated that the applicant has been renting a room at his residence.
- A letter dated April 2, 2012, from Social Security Administration.
- A letter dated September 8, 2011, from a representative of the [REDACTED] [REDACTED] requesting that the applicant's spouse be allowed to remain in the United States due to his son's medical condition.
- A statement from the applicant requesting reconsideration of her application.

- A document written in the Spanish language without the required English translation.

The director determined that the documents submitted were not sufficient to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on March 27, 2013.

On appeal, the applicant submits additional evidence to establish continuous residence and continuous physical presence. Coupled with the evidence previously provided, the applicant has submitted sufficient evidence on appeal, including contemporaneous documents, to establish her continuous residence and continuous physical presence in the United States during the requisite periods. Therefore, the decision of the director denying the application on these grounds will be withdrawn.

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 TPS application on December 19, 2011.

On June 25, 2012, the applicant also 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, 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.

As previously noted, the applicant provided a copy of her marriage license indicating she was married on April 27, 1996 in [REDACTED] USCIS records do not reflect that her spouse had filed a TPS application.¹

The applicant's statements on appeal have been considered. However, if the applicant was not able to afford the filing fee, nothing prevented her from applying for a fee waiver as indicated on the instructions to the Form I-821, Application for Temporary Protected Status. The AAO is bound by the clear language of the statute and lacks the authority to change the statute. The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) 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).

¹ USCIS records reflect that a master hearing was held and on October 12, 2011 the applicant's spouse was granted voluntary departure from the United States. The applicant, in a statement dated July 20, 2012, indicated that her spouse was deported on February 7, 2012.

Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

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.