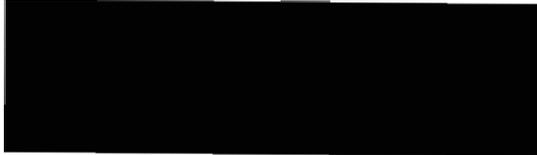


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Services

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FILE:



Office: California Service Center

MAY 21 2007

[WAC 05 127 76510]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on motion. The motion will be dismissed.

The applicant is 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 record reveals that the applicant filed a late initial TPS application on February 4, 2005, under CIS receipt number WAC 05 127 76510. The director denied the application, due to abandonment, on August 14, 2006, because he determined the applicant failed to respond, within 30 days, to an April 28, 2006, request to submit evidence to establish her eligibility for TPS, including eligibility for late initial registration for TPS. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. It is noted that the record of proceedings reveals that on June 28, 2006, the applicant submitted a response to the notice of intent to deny. Therefore, the AAO will consider the applicant's motion.

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.

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, 2007, upon the applicant's re-registration during the requisite period.

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 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 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).

With her TPS application, the applicant submitted photocopies of a Honduras photo identification card, issued in May 1997; a reference letter from [REDACTED] Parochial Vicar, Corpus Christi Catholic Church, stating that the applicant has been a church member since 1997; and, numerous receipts, including money order receipts and generic receipts for merchandise.

On April 28, 2006, the applicant was provided the opportunity to submit evidence establishing her eligibility for TPS, including eligibility for late initial late registration as set forth in 8 C.F.R. § 244.2(f)(2). In her late response, on June 28, 2006, to the notice of intent to deny, the applicant submitted:-

- A letter, signed by the applicant, stating that she arrived in the United States on July 25, 2001, but she had indicated on her TPS application that she entered the United States on July 10, 1997, because she had been advised that she needed to do so in order to obtain a driver's license;
- A receipt, dated December 4, 2004;
 - A Form I-94, Arrival Departure Card, reflecting that the applicant entered the United States on July 25, 2001, and was authorized to remain until January 24, 2002;
 - Two money transfer receipts, and two generic receipts; and,

- Individual Income Tax Returns - Form 1040, 2004, and 2005.

On appeal, the applicant states only that she does not know why the post office returned the documents she is resubmitting. With her appeal, in an attempt to establish her continuous residence and her continuous physical presence in the United States, the applicant submits a money transfer receipt; 3 unclear receipts; a Florida Identification card issued on September 18, 2001; and, a Certificate of Achievement, dated December 20, 2003.

However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period.

The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

Beyond the decision of the director, it is noted that the applicant admitted and CIS records reflect that she entered the United States on July 25, 2001, after the registration period for Hondurans. Therefore, she cannot establish the continuous residence and continuous physical presence in the United States requirements described in 8 C.F.R. §§ 244.2(b) and (c) during the requisite period. For these additional reasons, the application must be denied.

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 motion is dismissed.