



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 23398379

Date: DEC. 5, 2022

Appeal of Vermont Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, who is a national of Honduras, seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

The Director of the Vermont Service Center denied the application, concluding that the Applicant did not establish eligibility for filing a late initial TPS request under Honduran designation, and that she also did not demonstrate she met the requisite continuous residence and physical presence conditions for TPS.

On appeal, the Applicant submits additional evidence and explains that she did not previously apply for TPS because she was not aware of the initial registration period.

The Applicant has the burden of proof to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met that burden.

I. LAW

On January 5, 1999, the Secretary of Homeland Security designated Honduras for TPS.¹ Department of Homeland Security (DHS) regulations provide that an applicant who is a national of a foreign state so designated must register for TPS during the initial registration period announced by public notice in the Federal Register. 8 C.F.R. § 244.2(f)(1). To meet the initial registration requirements, Honduran nationals must have applied for TPS during the initial registration period from January 5, 1999, through July 5, 1999.

Individuals who did not register for TPS within the above time frame, may apply during any subsequent registration period, if they meet one of the late registration conditions set forth in 8 C.F.R. § 244.2(f)(2) or (g).

¹ *Designation of Honduras Under Temporary Protected Status*, 64 Fed. Reg. 524 (January 5, 1999).

The regulations at 8 C.F.R. § 244.2(f)(2) provide that to establish eligibility for late initial registration, an applicant must show that during the initial registration period (January 5, 1999, through July 5, 1999) he or she:

- (i) was a nonimmigrant or had been granted voluntary departure status or any relief from removal;
- (ii) had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal;
- (iii) was a parolee or had a pending request for re-parole; or
- (iv) was a spouse or child of a foreign national eligible to be a TPS registrant.

If the qualifying condition has expired or been terminated, an applicant must file for TPS within a 60-day period immediately following the expiration or termination. 8 C.F.R. § 244.2(g).

In addition, individuals applying for TPS offered to Hondurans (and persons without nationality who last habitually resided in Honduras) must demonstrate that they have been continuously residing in the United States since December 30, 1998, and have been continuously physically present in the United States since January 5, 1999.

II. ANALYSIS

The issues on appeal are whether the Applicant has established that she meets any of the eligibility criteria for late initial TPS registration set forth in the regulations and, if so whether she has demonstrated that she satisfies the continuous residence and physical presence requirements under the Honduran TPS designation. We have reviewed the record as supplemented on appeal, and conclude that the Applicant has not met her burden of proof to demonstrate eligibility for late initial TPS registration. Accordingly, we need not address at this time whether the Applicant has established the U.S. continuous residence and physical presence conditions for such status.²

The record reflects that the Applicant entered the United States in [] 1998 without inspection and admission or parole, and was placed in removal proceedings. In November 2010 she filed the instant Form I-821 requesting an initial TPS registration. As stated, the Director determined that the evidence, which included letters, photographs, and residential records was insufficient to establish that the Applicant was eligible for late initial TPS registration, nor did it show that she met the continuous residence and physical presence requirements for TPS.

The Applicant submits additional residential and financial records, utility bills, and photographs; she explains that the evidence of her residence and presence in the United States during the relevant periods is limited because following her release from immigration detention in [] 1998 she did not have a fixed address and did not work. We acknowledge the Applicant's statements; however,

² Instead, we reserve the issue. Our reservation of the issue does not mean that the Applicant has shown that she meets those requirements and should not be interpreted as such. Rather, as the Applicant has not established eligibility for filing a late TPS request, there is no purpose in considering if she meet substantive eligibility criteria for such status.

because she filed the instant Form I-821 outside of the initial TPS registration period she must first establish that she meets one of the eligibility criteria for late initial TPS registration.

The Applicant does not address her eligibility for late initial registration on appeal. The record reflects that she did not attend a removal hearing and an Immigration Judge ordered her removed from the United States *in absentia* in [] 1999. The Applicant does not claim, and the record does not indicate that during the initial registration period (January 5, 1999, through July 5, 1999) she had an application for adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal. As such, the Applicant has not demonstrated eligibility for late initial registration under the regulations at 8 C.F.R. § 244.2(f)(2)(ii). Moreover, there is nothing in the record to suggest that during the initial TPS registration period the Applicant was a nonimmigrant or had been granted voluntary departure or any relief from removal; was a parolee or had a pending request for re-parole; or had a qualifying familial relationship with another TPS-eligible noncitizen, as required under the regulations at 8 C.F.R. § 244.2(f)(2)(i), (iii), or (iv).

Consequently, the Applicant has not established eligibility for TPS as a late initial registrant and her Form I-821 remains denied.

ORDER: The appeal is dismissed.