



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: 11/11/11

IN RE: Applicant: [REDACTED]

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.

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

Robert P. Wiemann, Director
Administrative Appeals Office

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Identifying data deleted to
prevent clearly unwarranted
investigation of immigration

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

The applicant is a native and citizen of Nicaragua who is applying for 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.

On appeal, the applicant submits a statement.

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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 Nicaraguans 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 initial registration period for Nicaraguans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on July 8, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on November 3, 2003.

On appeal, the applicant states that she qualifies for late registration because she had an application for adjustment of status pending during the initial registration period.

The record shows that the applicant filed a Form I-485, Application to Register Permanent Residence or Adjust Status, with the Texas Service Center on April 12, 1999, seeking lawful permanent residence under the provisions of the Nicaraguan Adjustment and Central American Relief Act (NACARA), Section 202 of the Act. The applicant appeared at the District Office, Los Angeles, California, for her adjustment interview on April 17, 2001. During her interview, the applicant admitted that she paid an unknown individual \$2,000 to prepare the I-485 adjustment application package, including all supporting documentation. The applicant further admitted that she had no knowledge of any of the documents submitted in support of the Form I-485, and she never had any of the documents in her possession. Among the documents submitted in support of her Form I-485 were three pay statements from King Auto Body Shop in Los Angeles, California, purportedly showing salary paid to the applicant for the pay periods ending August 1, September 1, and October 15, 1995. The applicant stated during her adjustment interview that she worked as a babysitter in the United States and had never been employed by King Body Shop.

The applicant's NACARA application was denied by the District Director, Los Angeles, on May 7, 2001, because she had not established commencement of physical presence in the United States prior to December 1,

1995, and also because the applicant was inadmissible under section 212(a)(6)(C) of the Act as an alien who sought to procure an immigration benefit through fraud or willful misrepresentation of a material fact.

In a removal hearing before an Immigration Judge on July 27, 2001, the applicant was found to be inadmissible under section 212(a)(6)(A)(i) of the Act as an alien present in the United States without being admitted or paroled, or who arrived in the United States at a time or place other than as designated by the Attorney General; and also under section 212(a)(6)(C)(i) of the Act as an alien who, by fraud or willfully misrepresenting a material fact, sought to procure an immigration benefit. The applicant was granted voluntary departure in lieu of deportation at government expense on or before November 26, 2001, with an alternate order of deportation to Nicaragua if the applicant failed to depart as ordered.

The applicant failed to depart on or before November 26, 2001, as ordered. The District Director, Los Angeles, issued a notice ordering the applicant to appear at the Los Angeles District Office on January 29, 2002, for deportation to Nicaragua. The applicant failed to appear as ordered. The record contains a Form I-205, Warrant of Removal/Deportation, issued by the District Director, Los Angeles, on December 20, 2001. As of the date of this decision, the warrant is still outstanding.

While the applicant's pending application for adjustment of status rendered her eligible for late registration, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). In this case, since the applicant's application was denied on May 7, 2001, her 60-day period for late registration actually expired on July 7, 2001. The applicant filed her application with the California Service Center on July 8, 2003.

The applicant did not file her application during the initial registration period or during the allotted 60-day late registration period described in 8 C.F.R. § 244.2(g). The applicant has not submitted any evidence to establish that she has met any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant has been found by an Immigration Judge to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, and has not filed Form I-601, Application for Waiver of Grounds of Excludability, as required under 8 C.F.R. § 244.3(b). Therefore, the application may not be approved for this reason as well.

It is further noted that the applicant has submitted the same documentation of residence and physical presence with the Form I-821 that was previously submitted with the Form I-485. It is concluded that the applicant has not provided sufficient, credible evidence of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. Matter of Ho, 19 I&N Dec. 582. (Comm. 1988) Therefore, the petition also may not be approved for this *reason*.

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 appeal is dismissed.