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U.S. Citizenship
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Services

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FILE:



Office: TEXAS SERVICE CENTER

Date:

JAN 24 2005

[SRC 04 129 53778]

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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. The director noted that the applicant had only submitted evidence for the year 1999 and that she had failed to submit a copy of her current driver's license and her birth certificate with English translation as requested.

On appeal the applicant states:

The reason of the following is to ask if you can give me another opportunity to accept my case and give me the opportunity to continue being legal in this country in which lots of difficulty I live here with out having the opportunity of being employed and also have the chance to pay my taxes since 1997 that I entered this country I didn't have the right information before and that's why I never applied because they told me that I could be deported if I sent any papers with my information but I finally got the right information and I applied and since then I have received letters and I have answer them back and have sent all of have sent all of the money orders that you have ask for and all of the evidence please give me one more chance to have my papers in order and to have my work permit.

The applicant submits additional documentation for consideration including a copy of her birth certificate with an English translation.

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 shows that the applicant filed her application with Citizenship and Immigration Services (CIS), on April 5, 2004.

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).

On April 22, 2004, the applicant was requested to submit continuous physical presence documentation, a copy of her driver's license, a copy of her birth certificate with an English translation and evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on April 23, 2004.

It is noted that on her TPS application, the applicant indicates that she entered the United States on June 20, 1997 without inspection but that her current status is that of an F-1 nonimmigrant student. The record contains no documentary evidence to show that the applicant has been or remains in nonimmigrant student status since

her purported entry into the United States in 1997, or if and when that status terminated. To be eligible to apply under the late initial registration provisions of TPS, the applicant must demonstrate that she filed for TPS no later than 60 days from the termination of her status as a nonimmigrant student. She has not done so.

On appeal, the applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her 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 the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed for this reason.

In this case, the director objected that the applicant had not submitted a copy of her driver's license and birth certificate with an English translation. The applicant has submitted her birth certificate and an English translation on appeal. However, she has not submitted a copy of her driver's license. Applicants must submit all documentation as requested by CIS. If any required documentation is unavailable, an affidavit or other credible evidence may be submitted. The applicant has not provided her driver's license or documentation as to its unavailability as required by the regulations at 8 C.F.R. § 244.9(a).

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish her continuous qualifying residence and continuous physical presence during the requisite time periods. Therefore, the application cannot be approved for these additional reasons.

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.