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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
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Services

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FILE: [REDACTED]
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Office: NEBRASKA SERVICE CENTER

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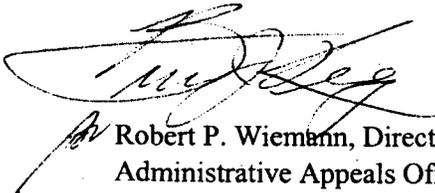
IN RE: Applicant: [REDACTED]

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts his claim of eligibility for TPS and submits evidence in support of his claim.

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, 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.

The phrase *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 phrase *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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 his initial application with Citizenship and Immigration Services (CIS), on October 15, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or 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 he or 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 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).

On December 4, 2002, the applicant was requested to submit evidence to establish his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his residence in the United States as of December 30, 1998, and his physical presence in the United States since January 5, 1999. The applicant did not respond to the director's request; therefore, the director determined that the applicant had failed to establish his eligibility for TPS and denied the application on April 9, 2003.

On appeal, the applicant provides the following documentation: a copy of his Nicaraguan passport issued in Nicaragua on November 21, 2000; copies of his Internal Revenue Service W-2 Forms, Wage and Tax Statements, for the years 1999, 2000, and 2001; copies of his earnings from [REDACTED] dated January 15, 1999 to December 24, 1999; copies of his earnings from [REDACTED] dated January 28, 2000 to December 22, 2001; a copy of his 2001 IRS Form 1099-MISC, Miscellaneous Income; a copy of his earnings statement dated April 27, 2001, from Executive Management Services; a copy of a medical report dated December 5, 2002; copies of an annual recertification for an apartment dated July 27, 2001; copies of medical billing statements dated October 1, 2002, and October 29, 2002, from the University Emergency Medicine Association; a copy of an undated money transfer receipt from [REDACTED] copy of an unsigned letter dated January 19, 2003, from [REDACTED] who stated that he has known the applicant since 1998; and a copy of his bank statement from BankOne for the period June 29, 2002 to September 30, 2002.

The first issue in this proceeding is whether the applicant is eligible for late registration. The applicant, on appeal, submits some evidence in an attempt to establish his continuous residence and continuous presence in the United States; however, he did not submit any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. The copies of the applicant's earnings statements submitted along with his appeal reflect employment which postdates the requisite time periods for continuous residence and continuous presence in the United States. The earliest date reflected on the earnings statements is January 15, 1999. It is noted, however, that the earnings statement dated January 15, 1999, reflects a "March 15, 2003" check date (check number: 2067). It seems unreasonable that the applicant would have been issued a check for employment that occurred four years earlier. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon 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 (BIA 1988). The applicant has failed to submit any objective

evidence to explain or justify the discrepancy. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

In addition, the medical reports and billing statements as well as the applicant's bank statement postdate the requisite time periods for TPS. The letter from Mr. [REDACTED] is not signed and the [REDACTED] Money Transfer is not dated; thus, these documents have little, if any, evidentiary weight. The apartment recertification does not reflect the applicant's name and does not provide any information directly related to the applicant. The applicant claims to have lived in the United States since December 17, 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his continuous residence and continuous physical presence in the United States during the requisite time periods. It is also noted that the applicant's passport was issued in Nicaragua on November 21, 2000. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status 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.