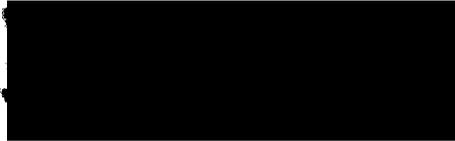




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 03 208 50961]

Office: Vermont Service Center

Date: NOV 03 2005

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, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a national or citizen of Nicaragua who is seeking 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 respond to a request for evidence to establish her nationality. Therefore, the director determined that the grounds of denial had not been overcome.

On appeal, the applicant submits additional evidence in support of her application for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant 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 § 244.3;
- (e) Is not ineligible under § 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 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 initial application with Citizenship and Immigration Services (CIS), on June 25, 2003.

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 July 25, 2003, the applicant was requested to submit evidence establishing her eligibility for TPS late registration. The applicant was also requested to submit a copy of her identity document. In addition, the applicant was requested to submit evidence establishing her qualifying physical presence in the United States. On August 16, 2003, the applicant responded to the director's July 25, 2003 request and submitted copies of her birth certificate along with an English translation; a letter dated August 12, 2003, stating that she is an El Salvadoran citizen; and, some evidence in an attempt to establish her qualifying physical presence in the United States.

Subsequently, on September 23, 2003, the applicant was requested to submit evidence of her citizenship and nationality. The director noted in his request that the applicant claimed to be a citizen of Nicaragua on her TPS application filed on June 25, 2003, and then later, she claimed to be a citizen of El Salvador in her letter dated August 16, 2003. The record did not contain a response from the applicant to the director's September 23, 2003 request; therefore, the director denied the application on January 29, 2004.

On appeal, the applicant submits the following documentation: copies of her birth certificate from Nicaragua; copies of the birth certificate of her father, Mr. [REDACTED] copies of her baptismal certificate from Nicaragua; and, a copy of a non-governmental photo identification card issued by USA ID Systems.

Pursuant to 8 C.F.R. § 244.9, each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

(a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.

(1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of: (Amended 11/16/98; 63 FR 63593)

(i) Passport;

(ii) Birth certificate accompanied by photo identification; and/or

(iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The applicant has provided a copy of her birth certificate along with an English translation as evidence of her identity; however, pursuant to 8 C.F.R. § 244.2(a)(1), the applicant must also provide photo identification. The applicant submits a copy of a non-government photo identification card issued by USA ID Systems, which cannot be considered as an official document for identification purposes in these proceedings. Pursuant to 8 C.F.R. § 244.2(a)(1), the applicant has provided insufficient evidence to establish that she is a national or citizen of Nicaragua. Therefore, the director's decision to deny the application on this ground will be affirmed.

The record reveals that the applicant filed her initial application with Citizenship and Immigration Services (CIS), on June 25, 2003, after the initial registration period had closed. 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 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).

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish her eligibility for late registration. Therefore, the application will be denied for this reason.

Further, beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish her qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for these reasons.

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 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.