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FILE:



Office: TEXAS SERVICE CENTER

Date: **OCT 03 2005**

[SRC 03 201 55207]

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.

On appeal the applicant states:

I'm filing this appeal because of that the Immigration Service denied my Form I-485, application to adjust status on October 19, 2001, but I never received any notice action. I was waiting for writing notice and I did not receive, then, I decided to file I-821, application for Temporary Protected Status after 18 months.

The record reflects that the director's decision denying her application for status as a permanent resident under the Nicaraguan Adjustment and Central American Relief Act (NACARA), was hand delivered to the applicant on October 19, 2001, the same day it was issued.

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 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).

On October 10, 2003, the applicant was requested to submit photo identification 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 May 17, 2004.

In this case, the director found that the applicant did not qualify for late registration because her Form I-485, Application to Register Permanent Residence, was denied on October 19, 2001 but that her application for TPS was filed approximately 18 months after the denial and not within the 60-day period following the denial of that application. Even had the applicant filed her application within 60 days of the denial, that action would not have caused her to be eligible for late registration because the applicant must have had an application for adjustment of status pending during the initial registration period. The record shows that the applicant did not

file her I-485 until February 9, 2000, after the initial registration period from January 5, 1999 through August 20, 1999 had expired

The applicant has 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.

Beyond the decision of the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of Nicaragua. The applicant has provided a copy of her birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any Nicaraguan identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the application is denied for this additional 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.