



U.S. Citizenship
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Services

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FILE: [REDACTED]
[WAC 05 146 75369]

OFFICE: CALIFORNIA SERVICE CENTER DATE:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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 claims to be a native and 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 submit sufficient documentary evidence to establish his eligibility for TPS that the Service requested in its Notice of Intent to Deny. Specifically, the applicant did not provide proof of identity.

On appeal, the applicant states that he entered the United States on October 31, 1988 and applied for asylum on December 12, 1988. He also submits copies of his Nicaraguan passport, birth certificate with an English translation as well as a copy of an order to Show Cause issued on October 31, 1988.

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 of a 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 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.

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 February 2, 2006, CIS notified the applicant of its intent to deny his TPS application and requested evidence establishing his eligibility for late registration, proof of nationality and identify as well as proof of his physical presence and continuous residence in the United States during the required period. In response, the applicant submitted the following documents:

1. Copy of an order to Show Cause issued on October 31, 1988.
2. Criminal record search finding issued by the Miami-Dade Police Department.
3. Social Security statement.
4. English translation of the applicant's Nicaraguan birth certificate.
5. Witness bond issued by the United States District Court of the Southern District of Texas.
6. Contract between [REDACTED] and the applicant.
7. Notarized statement from the applicant addressed to the Immigration and Naturalization Service (INS) in Baltimore, Maryland dated March 16, 1991, requesting voluntary departure from the United States.
8. Form I-274, Notice and Request for Disposition, issued by the INS on October 31, 1988.

The director denied the application on April 13, 2006 because the applicant failed to submit sufficient documentary evidence to establish his identity. On appeal, the applicant states that he entered the United States on October 31, 1988 and applied for asylum on December 12, 1988. He also submits copies of his Nicaraguan passport, birth certificate with an English translation as well as a copy of an order to Show Cause issued on October 31, 1988.

The applicant has overcome the sole ground of ineligibility cited by the director. However, the record reveals that the applicant is statutorily ineligible for TPS because he did not register during the initial registration period, nor does he satisfy any of the requirements for late registration detailed in 8 C.F.R. § 244.2(f)(2).

Persons applying for TPS offered to Nicaraguans must demonstrate continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration

period for Nicaragua 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 February 23, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The applicant has not submitted 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 decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying residence or physical presence during the requisite time periods. As the appeal will be dismissed on the grounds discussed above, these issues need not be examined further.

A review of the record reveal that the applicant's asylum application was denied by an Immigration Judge in Baltimore, Maryland on February 26, 1990 and that he was ordered deported to Nicaragua. It appears that this order remains outstanding.

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.