

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

DEC 03 2007

MW

DEC 03 2007

FILE: [REDACTED]
[EAC 06 210 71938]

Office: VERMONT SERVICE CENTER

Date:

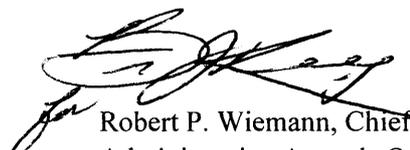
IN RE: Applicant: [REDACTED]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 determined that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as 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.

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.

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.

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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for Nicaraguans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed this application on April 28, 2006.

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 Citizenship and Immigration Services (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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On November 29, 2006, the applicant was provided the opportunity to submit evidence establishing 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 continuous residence in the United States since December 30, 1998 and his continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence

during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he entered the United States in 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. Consequently, the director's conclusion that the applicant failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are 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.

As stated above, the applicant was requested on November 29, 2006 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. Copies of an Account Summary from the Internal Revenue Service (IRS) dated November 27, 2006, and an IRS Request for Payment dated December 4, 2006.
2. A copy of a Nicaraguan identification card.
3. Copies of Progressive American Insurance Co. receipts dated October 6, 2006, and December 11, 2006.
4. Copies of receipts from Naples Bumper & Auto Body Supply, Inc. dated November 10, 2006, November 28, 2006, November 30, 2006, December 1, 2006, and December 8, 2006.
5. Copies of money transfer receipts dated July 24, 2005, September 12, 2005, December 12, 2005, August 14, 2005, October 28, 2005, November 19, 2005, December 23, 2005, January 14, 2006, February 2, 2006, and March 12, 2006.
6. Copies of an undated copy of a Garment Request, and a payment receipt from Gold Nugget Jewrly (sic) & Pawn dated December 17, 2005.
7. Copies of receipts from various retail stores.
8. Copies of money order receipts dated March 17, 1998, February 16, 2000, June 19, 2001, June 17, 2002, and August 31, 2004.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

9. Copies of an undated Garment Request
10. Copies of receipts from Naples Bumper & Auto Body Supply, Inc. dated November 20, 2006, and August 22, 2006.

11. Copies of hand-written rent receipts dated July 3, 2005, August 3, 2005, September 3, 2005, October 3, 2005, December 3, 2005, and a receipt dated March 6, (no year).
12. Copies of receipts from various retail stores and Lotto tickets.
13. Copies of a Certificate of Accomplishment dated December 5-6, 2005, a bill from Computer Credit, Inc. dated December 19, 2005, a letter from 21st Century Insurance dated October 15, 2006, a document from Lexicon Marketing Corp. dated September 21, 2006, and an undated document from Recoveries.
14. Copies of money transfer receipts dated March 15, 2006, April 29, 2006, June 3, 2006, September 29, 2006,
15. Copies of envelopes dated December 19, 2005, February 25, 2006, January 4, 2007, and a copy of an envelope, that does not have a date stamp.
16. Copies of money order receipts dated April 6, 1999, May 30, 1999, September 2, 1999, June 17, 2002, September 11, 2002, and November 19, 2002.

The Nicaraguan identification card establishes the applicant's nationality and identity. The various retail store and money order receipts and Lotto tickets do not bear the applicant's name or indicate any connection to the applicant. Therefore, the receipts are of no probative value. The hand-written rent receipts above are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Therefore, these receipts carry little evidentiary weight and will not serve to establish the applicant's eligibility. One of the money transfer receipts indicates a date of July 24, 2005, and is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, the evidence presented is of little or no probative value.

The applicant has not submitted sufficient evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

Beyond the decision of the director, it is noted that the applicant provided a photocopy of his national identification card in an attempt to establish his nationality and his identification. However, the identification card was signed by the applicant and issued in Nicaragua on April 6, 1999. This is further evidence that the applicant has not met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c).

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 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.