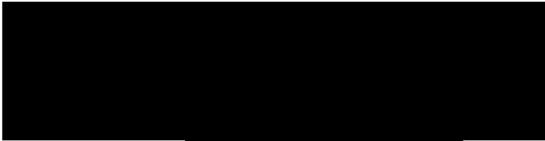




U.S. Citizenship
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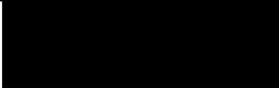
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FILE:



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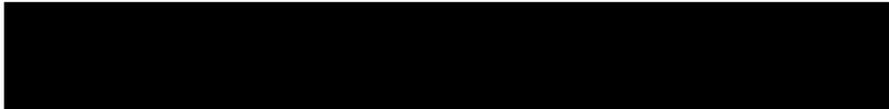
FEB 23 2007

Date:

[WAC 05 055 74776]

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:



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 (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 record reveals that the applicant filed a TPS application on September 23, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 03 022 53521. The Texas Service Center (TSC) director denied that application on August 11, 2004, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. After a review of the record, the Chief, AAO, concurs with the TSC director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 24, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2). The applicant's adjustment of status application was denied on April 25, 2003, by an Immigration Judge at Miami, Florida.

A review of the record also reveals that the applicant was paroled into the United States on February 4, 2000 at Miami, Florida. Therefore, the applicant could not have established his qualifying continuous residence and continuous physical presence in the United States. 8 C.F.R. § 244.2(b) and (c). Therefore, the application must also be denied for these reasons.

Although not addressed by the director, the record of proceedings contains the Federal Bureau of Investigation report reflecting that the applicant was arrested on April 12, 2003, by the Metro-Dade Police Department and charged with "Driving Under the Influence". In any future proceedings before CIS, the applicant must submit evidence of the final court disposition of is and any other charges against him.

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.