

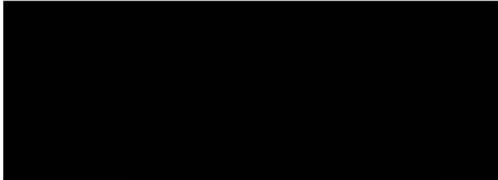


**U.S. Citizenship  
and Immigration  
Services**

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invasion of personal *privacy***

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FILE: [REDACTED]  
[EAC 06 255 72941]

OFFICE: VERMONT SERVICE CENTER      DATE: **JAN 03 2008**

INRE:      Applicant: [REDACTED]

APPLICAnON:      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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

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 claims to be a 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 claims that she is eligible for late registration because prior to her 2006 marriage to her spouse, [REDACTED], she had been his common law spouse since 1998.

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.

Persons applying for TPS offered to Nicaragua 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 TPS application on June 21, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC0220753960. The Director, Texas Service Center, denied that application on August 16, 2002. The applicant's appeal from the denial of that application was rejected by the AAO on December 6, 2005, as the appeal was untimely filed.

The applicant filed her second TPS application on December 19, 2004, under CIS receipt number WAC0508570198 and indicated she was re-registering for TPS. The Director, California Service Center, denied that re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant's appeal from the denial of that application was dismissed on December 6, 2005, as the AAO concurred with the director's finding.

The applicant filed the current TPS application with CIS on May 31, 2006, and indicated it was an initial application.

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

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).

The director, in denying this application on May 30, 2007, determined because the applicant's marriage to her spouse occurred on February 25, 2006, instead of during the initial registration period, she was not eligible for late registration as a spouse of an alien currently eligible to be a TPS registrant.

On appeal, the applicant claims from 1998 through February 24, 2006, she was the common law spouse of [REDACTED]. The applicant provides copies of her children's April 5, 2003, and February 8, 2007 birth certificates; her February 25, 2006 marriage certificate; and an affidavit from her spouse. [REDACTED] asserts, in his affidavit, that he first met the applicant in November 1998 and from January 1999 until the date of their marriage she was his common law spouse. **\_\_\_ states** that he and the applicant have been residing together in Miami, Florida since 1998.

The record, however, reflects **that** on each Form I-821 and Form I-765 application signed by the applicant since 2002 through 2004, the applicant certified under penalty of perjury that she was single. Likewise, on appeal from the denial of the initial TPS application, the applicant indicated she was "a single mother."

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant has failed to explain why she repeatedly certified that she was single if she considered herself to have been in a common law marriage during this time period. Thus, the applicant's current claim to have been a common law spouse of a TPS recipient since 1998 is without merit.

Further, the state of Florida, where applicant resides, does not recognize common law marriages entered into after 1968. FLA. STAT. ANN. section 741.211 (2002).

The regulations clearly state that in order to be eligible for late registration the applicant must be the spouse of an alien eligible for TPS *during the initial registration period*, which for Nicaragua was January 5, 1999 through August 20, 1999. The applicant's marriage occurred on February 25, 2006. The applicant has not submitted any evidence to establish that she 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 is noted that the record contains a copy of the applicant's passport that was issued to her in Nicaragua on April 15, 1999. This information seriously undermines the credibility of the applicant's claim to have continuously resided since December 30, 1998, and been physically present since January 5, 1999, in the United States.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. *Matter of Ho*, 19 I&N at 592. Given the contradictory issue arising from the applicant's passport, it is determined that the applicant has not credibly established her continuous residence and physical presence during the requisite periods. 8 C.F.R. § 244.2(b) and (c). As such, the application must be denied for this reason as well.

It is noted that a removal hearing was held on December 9, 2005, and the alien was ordered removed from the United States. On December 23, 2005, the applicant appealed the immigration judge's decision to the Board of Immigration Appeals (BIA). On March 19, 2007, the BIA dismissed the appeal.

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.