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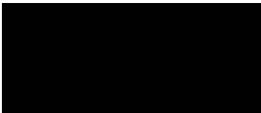


U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: JAN 22 2008

[EAC 06 304 86736]

INRE:

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) 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 he was eligible for late registration. The director also denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts his claim of eligibility for TPS and submits some additional evidence.

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, 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.

The phrase *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.

The phrase *continuously resided*, as defined in 8 c.p.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 in the United States 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 his application with Citizenship and Immigration Services (CIS), on July 23, 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.P.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 November 24, 2006, the applicant was requested to submit evidence to establish his eligibility for late registration as set forth in 8 C.PR § 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 since January 5, 1999. In response, the applicant submitted copies of the following documentation: the biographical pages of his Nicaraguan passport; a series of hand-written rental receipts dated October 1, 2005, December 1, 2006, December 1, 2002; June 5, 1987, November 5, 1998, January 1, 1993, October 1, 1996, December 1, 2002, November 1, 2004, October 1, 2005, and December 1, 2006; two receipts from OMS Delivery dated May 21, 2006, and September 3, 2006; four Western Union money transfer receipts dated September 5, 2000 to September 5, 2005; and, cash register and money order receipts from various merchants which do not bear any name.

The director determined that the evidence submitted was insufficient to establish the applicant's qualifying continuous residence and his continuous physical presence in the United States. The director also determined that the applicant failed to establish his eligibility for TPS late registration. Therefore, the director denied the application on January 26, 2007.

On appeal, the applicant asserts that he has lived in the United States since 1986, and that he has answered all the requests from CIS. The applicant also provides copies of the following documentation: his Social Security Card; OMS Delivery receipts dated January 4, 2006, February 25, 2006, and March 25, 2006; three Western Union money transfer requests dated June 7, 2005, April 6, 2001, and August 9, 2002; three hand-written receipts dated November 1, 1997, June 6, 2001, and January 1, 1999; the birth certificate of his daughter born on March 11, 1991; and several money order and cash register receipts that do not bear any name.

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

As previously discussed, the applicant filed his TPS application on July 23, 2006, nearly seven years after the close of the initial registration period for Nicaraguan nationals which ended on August 20, 1999. 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.

A review of the record of proceedings reflects that the applicant filed an asylum application on March 7, 1986, under file number _____. His asylum application was denied on April 19, 1989. While CIS regulations allow aliens with pending asylum applications to apply for TPS after the initial registration period, the regulations require that a late registration be filed within a 60-day period immediately following the denial of the application for asylum and the dismissal of any subsequent appeal. 8 C.F.R. § 244.2(g). In this case, the application for TPS was filed on July 23, 2006, more than 60 days after his asylum application was denied. Consequently, the director's decision to deny the application for TPS late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence and his qualifying continuous physical presence in the United States.

A review of the evidence reflects that the applicant has provided several cash register receipts and money order receipts that do not bear any name. Therefore, this evidence has very little evidentiary weight. It cannot be ascertained if, in fact, these are actually the applicant's receipts. Furthermore, the Western Union money transfer receipts do not appear to have been certified by an agent. Although the applicant submits some hand-written rental receipts, they bear no official stamps or markings to authenticate their dates of preparation.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient credible 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. The applicant has, therefore, failed to establish that he has met the eligibility criteria described in 8 C.F.R. § 244.2 (b) and (c). Consequently, the director's decision to deny the application for these reasons will be affirmed.

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.