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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship
and Immigration
Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: MAY 11 2004

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.

for Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant is 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 determined that the applicant failed to submit evidence to establish that she was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant claims that she filed her initial TPS application on August 17, 1999. She states that an individual who helped her to prepare her TPS application has since been detained by the police as part of a fraud investigation. The applicant submits evidence and states that she will submit additional evidence by July 11, 2003. To date, however, no additional evidence has been received. Therefore, the record will be considered complete.

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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

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. 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, 2005, upon the applicant's re-registration during the requisite time period.

The initial registration period for Nicaraguans was from January 5, 1999, through August 20,1999. The record reflects that the applicant filed her TPS application on May 13, 2002.

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 record of proceeding confirms that the applicant filed her application for TPS on May 13, 2002, after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On December 31, 2002, the applicant was requested to submit evidence establishing her 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 her qualifying residence and physical presence in the United States. The applicant, in response,

provided documentation relating to her residence and physical presence in the United States. She also submitted a letter requesting that her case be continued because she had been "defrauded by a dishonest lawyer" and her case had been delayed. She did not provide further details concerning the alleged incident, nor submit any evidence to establish her eligibility for late registration.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on May 21, 2003. On appeal, the applicant again renews her claim that she has been defrauded by the individual who helped her to prepare her application for TPS. She states she has turned her records over to the Boston Police Department as part of a fraud investigation. She submits additional evidence of residence in the United States. In addition, the applicant submits the following documentation:

1.) a copy of a Form I-765, Application for Employment Authorization, dated August 17, 1999;
2.) a money order in the amount of $100 on which the date of issue is not visible;
3.) a copy of a Form I-821, Application for Temporary Protected Status, dated August 17, 1999, which bears a stamp indicating that the application had been received by a law firm, but the date is unclear;
4.) a Form G-28, Notice of Entry of Appearance as Attorney or Representative, naming a law firm in Boston, Massachusetts, as the applicant's representative in "TPS" matters;
5.) a handwritten receipt, #445602, dated August 6, 1999, in the amount of $34, which indicates it is payment for "TPS;"
6.) a Form I-797, Notice of Action, dated August 23, 2001; and,
7.) a copy of the applicant's authorization to the Immigration Rights Center to release her files to the Boston Police Department.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The evidence submitted by the applicant indicates that she may have completed an application for TPS on or around August 17, 1999; however, there is no evidence in the record that the applicant properly filed the application within the initial registration period. The August 23, 2001, Notice of Action, Form I-797, reflects that a Form I-821, Application for Temporary Protected Status, was received on or around August 23, 2001. The application form was returned to her on that date with the request that she submit evidence that she was eligible for late registration. The record does not reflect that the applicant re-submitted the Form I-821. She submitted a new Form I-821 on May 13, 2002.

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 conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The burden of proof is upon the applicant to establish 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.