U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 26 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.

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

DISCUSSION: The application was denied by the Director, California 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 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 submits a statement.

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 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.

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. The initial registration period for Nicaraguans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 20, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, *he 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 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).

The burden of proof is upon the applicant to establish that 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On November 11, 2003, 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, in response, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on January 8, 2004.

On appeal, the applicant states that she did not apply for TPS during the initial registration period because she had "a labor certification in process." She states, "[w]hen it was time to reregister, I did but never received an answer. I tried again in 2001 and again never received anything."

The record indicates that the applicant was admitted to the United States as a nonimmigrant B-2 visitor at Miami, Florida, on May 29, 1998, with stay authorized to October 28, 1998. She has remained in the Untied States in unlawful status since that date. Since the initial registration period for Nicaraguans did not begin until January 5, 1999, the applicant does not qualify for late initial registration as an alien who was in valid nonimmigrant status during the initial registration period, or as an alien who registered for TPS within 60 days of the expiration of her nonimmigrant status.

The record contains a letter from the Foreign Labor Certification Office, Employment Development Department, State of California, acknowledging receipt of a United States Department of Labor (DOL) Form ETA 750, Application for Alien Employment Certification, on April 30, 2001, along with a DOL Form ETA 750 seeking

labor certification for the applicant in order to serve as a live-in domestic household worker for Mr. And Mrs. Los Angeles, California. The form appears to have been signed by Mrs. on April 27, 2001. However, the applicant has not submitted any evidence to establish that Mr. and Mrs ever filed an application for change of status or adjustment of status on the applicant's behalf. The applicant has not submitted any evidence to establish that she had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal that was pending or subject to further review or appeal during the initial registration period.

Although the applicant claims that she filed TPS applications in 2000 and 2001, she has not submitted sufficient evidence to establish her claim. She submitted a photocopy of a Form I-821, Application for Temporary Protected Status, that she purportedly signed on June 27, 2000; however, the applicant has not provided any evidence that she ever filed this application with the California Service Center. Even if she had filed this application on or around June 27, 2000, it still would have been untimely filed, since the initial registration period for Nicaraguans ended on August 20, 1999. The applicant has not submitted any evidence to establishing that she has met any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. Therefore, the application also may not be approved for these reasons.

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.