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U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

Date:

MAY 24 2005

[SRC 03 186 54610]

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: 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

DISCUSSION: The application was denied by the Director, Texas 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 noted that the applicant's Application to Register Permanent Residence or Adjust Status, Form I-485, was rejected and that there was no record of the application being resubmitted. The director then denied the application because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant states that she timely filed her initial registration to the TPS humanitarian program in May 1999. She indicates that she has tried to retrieve her documents from an agency but that it has closed and she was unable to do so. The applicant explains that she filed an adjustment of status application that was rejected because of a fee problem. The applicant further states that she then re-submitted that application along with the proper fees on April 27, 2000.

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 shows that the applicant filed her application with Citizenship and Immigration Services (CIS), on June 19, 2003.

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

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 her own statements. 8 C.F.R. § 244.9(b).

On February 2, 2004, 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 director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 29, 2004.

In this case, the applicant indicates that she is eligible for late registration because she filed an application to register permanent residence or adjust status under the category "NACARA."

In order to qualify for late registration under 8 C.F.R. § 244.2(f)(2), the applicant must have had an application for adjustment of status pending during the initial registration period. The record reflects that the applicant did not file her application for adjustment of status until March 31, 2000, after the initial registration period from January 5, 1999, through August 20, 1999 had expired.

It is noted that on her TPS application, the applicant indicates that she entered the United States on January 26, 1994 as a "visitor B1-B2," but does not indicate when that visitor status terminated. The record contains no documentary evidence to show that the applicant remained in nonimmigrant visitor status since entry into the United States in 1994, or if and when that status terminated. To be eligible to apply under the late initial

registration provisions of TPS, the applicant must demonstrate that she filed for TPS no later than 60 days from the termination of her status as a non-immigrant visitor. She has not done so.

On appeal, the applicant submits receipts for filed applications and application reject notices that she received from the Texas Service Center, an appointment notice to appear for fingerprinting at the CIS office in Miami-Hialeah, a "DBI Tenprinter Applicant Information Worksheet" and copies of money orders that she sent to CIS with her various applications. The applicant's statements and submitted documents are acknowledged; however, they do not mitigate her failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. The applicant has not submitted evidence to establish that he 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 temporary protected status is affirmed.

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.