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**U.S. Department of Homeland Security  
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Washington, DC 20529**



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

**PUBLIC COPY**

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: MAY 19 2005  
[SRC 04 085 54996]

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.

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

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 (AAO) 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 denied the application because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant submits a statement and 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 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 reparation; 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.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 phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until July 5, 2006, 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 reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS), on February 2, 2004.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following

the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g).

On February 12, 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 applicant was also requested to provide evidence establishing her continuous residence and her continuous physical presence during the requisite periods. In addition, the applicant was requested to submit photo identification, or a national identity document bearing a photograph and/or fingerprint, along with a copy of her current driver's license. The applicant, in response, provided photocopies of the following documentation:

1. Rapid Envious receipts dated in February, April, June, and August 1999;
2. A money transfer receipt dated “[illegible]-01-99,” from Private Lines Group of Florida, Miami, Florida;
3. A cargo shipping receipt dated “2-01-99,” from INMA, Miami, Florida; and,
4. A letter dated January 26, 2004, from the Assistant General Manager, Remesas America Oriental, stating that the applicant has been a client since March 19, 1999.

It is noted that with the initial application, the applicant had previously submitted photocopies of: her Nicaraguan birth certificate, with English translation; generic store and money order receipts dated in 1997, 1998, 1999; a letter from Bell South dated March 23, 1998; and, a Bally Total Fitness Service, Towson, Maryland, billing statement dated April 4, 1998.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 22, 2004.

On appeal, the applicant states that she would like the “[o]portunity to continue being legal in this country in which with a lot of difficulty [she has] lived here without having the [o]portunity of being employed and also given the chance to pay [her] taxes.” She states that she has lived in the United States since “1998.” She also states that she did not apply during the initial registration period because she was fearful of being deported. In support of the appeal, the applicant submits nine receipts from O.M.S. Deliveries, Miami, Florida, all dated in March, April, May, and June of 1999.

The applicant submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. The reasons given by the applicant for not filing her Form I-821, within the initial registration period, do not fall within the allowable provisions for late registration. 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 temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not established her continuous residence in the United States since December 30, 1998, and her continuous physical presence since January 5, 1999. Much of the submitted documentation is generic and cannot be directly linked to the applicant. The letter dated January 26, 2004, from the Assistant General Manager, Remesas America Oriental, stating that the applicant has been a client since March 1999, is not notarized, and is not supported by receipts from that company. Other than this letter, the applicant failed to submit any evidence from mid-1999 through the filing date of the petition. In addition, much of the submitted documentation appears to have been altered. Doubt cast on any aspect of the

applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the applicant has failed to submit sufficient credible evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

It is also noted that the applicant failed to submit the requested photo identification, or a national identity document bearing a photograph and/or fingerprint, along with a copy of her current driver's license. The application must also be denied for this reason.

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.