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

U.S. Citizenship and Immigration Services

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[redacted]

MI

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: AUG 03 2005

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, 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 denied the application because the applicant failed to establish that she was eligible for late registration. The director also determined that the applicant had failed to establish her continuous residence and continuous physical presence in the United States during the requisite time period. Finally, the director found that the applicant had failed to submit a copy of her current driver's license.

On appeal, the applicant states:

> The reason of the following is to ask if you can give me another opportunity to accept my case and give me the opportunity to continue being legal in this country in which lots of difficulty I live here with out having the opportunity of being employed and also have the chance to pay my taxes since 1998 that I entered to this country. I didn't have the right information before and that's why I never applied because they told me that I could be deported if I sent any papers with my information but I finally got the right information and I applied and since then I have received letters and I have answer them back and have sent all of have sent all of the money orders that you have ask for and all of the evidence please give me one more chance to have my papers in order and to have my work permit.

Section 244(c) of the Act, and the related regulations at 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 of a 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 Temporary Protected Status 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.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.

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 application with Citizenship and Immigration Services (CIS), on April 5, 2004.

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 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).

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. 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/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).

On April 22, 2004, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her continuous physical presence in the United States. The applicant, in response, provided some documentation relating to her residence and physical presence in this country. However, she did not submit any evidence to establish that she was eligible for late initial registration.

It is noted that on her TPS application, the applicant indicates that she was in status in the United States as an F-1 nonimmigrant student but does not indicate when that student status terminated. The record contains no documentary evidence to show that the applicant remained in nonimmigrant student status since entry into the United States in 1998, 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 nonimmigrant student. She has not done so.

On appeal, the applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

The regulations at 8 C.F.R. § 244.9, state that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

> (a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.
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> > (1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and

> affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of: (Amended
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> (i) Passport;
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> (ii) Birth certificate accompanied by photo identification; and/or
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> (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

In this case, the director objected that the applicant had not submitted her driver's license. The applicant has not submitted her driver's license on appeal. Applicants must submit all documentation as requested by CIS. If any required documentation is unavailable, an affidavit or other credible evidence may be submitted. The applicant has not provided her driver's license or documentation as to its unavailability as required by the regulations at 8 C.F.R. § 244.9(a).

It is noted that the applicant submitted her birth certificate along with a translation. However, the regulations at 8 C.F.R. § 103.2(b)(3) state that any document containing foreign language submitted to the Service shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. In this case the submitted translation is unacceptable, as it does not contain the required translator certifications. As no acceptable translation is provided, this foreign language document and the submitted birth certificate shall not be considered as evidence in this matter. It is noted that the applicant has established her identity and nationality by submitting a copy of her Nicaraguan national identification card.

Additionally, it is noted that the applicant has provided insufficient evidence to establish her continuous residence and continuous physical presence during the required time period. 8 C.F.R. § 244.2 (b) and (c). Therefore the application shall be denied for these additional reasons.

An alien applying for TPS 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.