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FILE: [REDACTED]
[SRC 04 002 53858]

Office: TEXAS SERVICE CENTER Date: **AUG 15 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.

A handwritten signature in cursive script, 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 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 establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director also determined that the applicant failed to provide photo identification or proof of his nationality. The director, therefore, denied the application.

On appeal, the applicant states that he has lived in the United States since 1997 and asks that he be given the opportunity to continue being legal in this country. The applicant also submits additional evidence in an attempt to establish his continuous residence and physical presence in the United States during the qualifying period.

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 parole; 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 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.

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.

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 September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted 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 to August 20, 1999. The record shows that the applicant filed his initial TPS application on September 19, 2003.

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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within one of 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 the late initial registration. 8 C.F.R. § 244.2(g).

On January 29, 2004, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit photo identification, and evidence establishing his residence in the United States since December 30, 1998, and his physical presence in the United States from January 5, 1999 to the date of filing the application. The applicant, in

response, provided evidence of his identity, and evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. The applicant did not present any evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he entered the United States in 1997 and requests that he be allowed to remain legal in this country. According to the applicant, he did not provide the right information because he was told that if he did he would be deported, but he has now provided all of the requested documents. The applicant also provides additional evidence in an attempt to establish his continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. The applicant has not submitted any 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 conclusion that the applicant failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

The applicant initially submitted photocopies of various cash receipts and billing statements, but the applicant's name does not appear on these documents.

As stated above, the applicant was requested on January 29, 2004, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant was also instructed to provide photo identification or any national identification document from his country of origin bearing a photo. In response, the applicant submitted the following documentation:

1. A copy of a State of Florida Identification Card issued on October 23, 2003.
2. Copies of an invoice from Nomar Blinds, Miami, Florida, dated October 28, 1999.
3. A copy of a receipt from Energetic By Bag, Miami, Florida, dated July 3, 1999.
4. A copy of a receipt from Van ES Express Cargo Service, Miami, Florida, dated May 8, 1999.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant furnished:

5. A copy of a receipt from Energetic By Bag, Miami, Florida, dated October (date unknown), 1999.
6. A copy of a receipt from Nicaragua Delivery & Courier, Miami, Florida, dated August 14, 1999.
7. Copies of hand-written, generic rent receipts dated July 4, 1999, August 1, 1999 and September 7, 1999.
8. A copy of a receipt from Vanessa Jewelry, Miami, Florida, dated May 8, 1999 and a copy of a receipt from an unknown business dated August 1, 1999.

9. Copies of receipts from Avon dated January 14, 1999 and April 10, 1999.

One of the Avon receipts is dated January 14, 1999, and is the earliest date presented as evidence of the applicant's presence in the United States.

The applicant has not submitted sufficient evidence to establish his qualifying residence or physical presence in the United States during the period from December 30, 1998 to January 14, 1999. He has not provided any evidence to establish his qualifying continuous residence and continuous physical presence in the United States from October 1999 to September 19, 2003, the filing date of his TPS application. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be 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.