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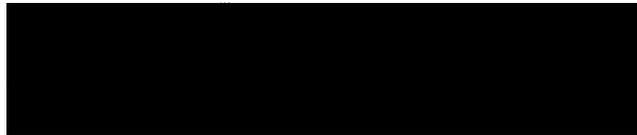
Office: TEXAS SERVICE CENTER

Date:

JUN 24 2005

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 denied the application because the applicant had been asked to submit evidence to show that she had been physically present in the United States from January 5, 1999 to the date of filing her application but had only submitted evidence for the year 1999. The director also found that the applicant had not established eligibility for late registration, and had failed to submit copies of her current driver's license and her original birth certificate and English translation.

On appeal, the applicant states:

The reason of the following is that I would like for you to re-open my case and to give me the oppourtunity [sic] to be legal in this country in which with a lot of difficulty I have lived here without having a better opportunity in employment and also to pay my taxes.

I have answered all the documents that I have received form [sic] the BCIS office because I have trully been living here since 1998.

Please don't deny me the opportunity because I wouldn't like to lose my job permit and i [sic] would also like for you not to dieny [sic] my TPS.

For lock [sic] of information I didn't send the paper of my case on the date appointed and I was afraid about it and that people that live with me said that I was just about to be deported, so this is the reason why in didn't send my pepawork. [sic] Please don't deny the opportunity to be legal in this country and to have a better life with my familiy. [sic]

The applicant also provides additional evidence in support of her claim.

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. 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 March 8, 2004.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 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).

On March 29, 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 continuous physical presence in the United States. The applicant, in response, provided documentation relating to her identification 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.

In this case, the director objected that the applicant had not submitted a copy of her current driver's license and a photocopy of her original birth certificate along with an English translation. The applicant has not submitted those documents 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 these documents or documentation as to their unavailability as required by the regulations at 8 C.F.R. § 244.9(a). Therefore, the application is denied for this additional reason.

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.