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

M1

FILE:



Office: California Service Center

Date: **DEC 27 2006**

[WAC 05 246 70422]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant filed a late initial TPS application on December 6, 2002, under CIS receipt number SRC 03 048 53350. The Texas Service Center director denied the application on April 18, 2003, because the applicant failed to submit evidence to establish eligibility for late initial registration for TPS. The record reflects that the applicant filed an untimely appeal on December 16, 2004. The director, Texas Service Center, treated the untimely appeal as a motion to reopen, and denied the motion as the applicant failed to overcome the grounds for denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on June 3, 2005, under CIS receipt number WAC 05 246 70422, and indicated that he was re-registering for TPS. The director, California Service Center, denied that application on July 23, 2005, as the applicant's initial TPS application had been denied and the applicant was not eligible to apply for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

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 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.

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 Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on December 6, 2002.

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

The director determined that the applicant had failed to establish he was eligible for TPS and denied the application. There is no evidence in the record to establish the applicant's eligibility for late initial registration.

On appeal, the applicant states that he has been in the United States since 1998, and he wants an opportunity to be legal. With the appeal, in an attempt to establish his continuous residence and his continuous physical presence in the United States, the applicant submits copies of: an undated money order receipt for \$120.00; a

letter from [REDACTED] stating that the applicant has been his tenant since September 1998; 3 money transfer receipts from O.M.S Delivery dated in the years 2001, and 2002; an order Acknowledgement from Virtual Order Engine, dated April 9, 2003; a prescription form with an indiscernible inscription, from [REDACTED]; a Wachovia deposit receipt, dated April 8, 2004; a Wachovia inquiry, dated April 16, 2004; 2 copies of State Farm Insurance identification cards, dated March 19, 2003; a credit card purchase receipt, dated June 14, 2002; a receipt from [REDACTED] dated June 14, 2002; an undated First Union ATM card cover letter; a Social Security earnings statement, dated May 5, 2001; 2 prescriptions from [REDACTED] D.D.S., P.A.; dated February 27, 2002; a \$1,200.00 check, No. 1058, written to [REDACTED], as payee, dated October 13, 2001; 3 receipts from [REDACTED] dated in the years 1999, and 2000; a packing list, dated September 16, 2004; a CCS credit card approval notice; 2 Western Union money transfer receipts, one dated October 30, 2002, and one undated; 2 checks from [REDACTED] by [REDACTED] c.; a State Farm invoice, dated March 20, 2004; a 2004 Form W-2; 3 form 1099-Misc for 2002, 2003, and 2004; a dental evaluation form dated February 20, 1999; and 3 pages of undated handwritten notes (in Spanish) on [REDACTED] [REDACTED] by [REDACTED] letterhead. However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period.

Therefore, for this additional reason, the director's decision to deny the application will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.