U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

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U.S. Citizenship and Immigration Services

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OCT 23 2006

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:
[WAC 05 075 70178]

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, Chief
Administrative Appeals Office

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

The applicant claims to be a 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 record reveals that the applicant filed her initial TPS application on June 17, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 201 54559. The Director, Texas Service Center, denied that application on July 31, 2002, because the applicant failed to establish her eligibility to file for late initial registration. On September 24, 2002, the applicant filed an appeal from the denial decision. The Director (now Chief), AAO, dismissed that appeal on April 15, 2003. On October 17, 2003, the applicant filed a Motion to Reopen and Reconsider the AAO decision. That motion was rejected as untimely on December 18, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 14, 2004, and indicated that it was her initial application for TPS.

The director denied the application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that she has submitted enough evidence to prove her TPS eligibility.

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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

> (f) (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 initial registration period for Nicaraguans was from January 5, 1999 to August 20, 1999. The record reveals that the applicant filed the current application with CIS on December 14, 2004.

To qualify for late registration, the applicant must provide evidence that during the initial registration period 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 appeal, the applicant states that she is not submitting a separate brief or evidence and that she has sent enough evidence to prove her eligibility for TPS.

The applicant, however, has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). The applicant states that she entered the United States as a B1/B2 nonimmigrant visitor. While the applicant's nonimmigrant status technically rendered her eligible for late registration, regulations at 8 C.F.R. § 244(g) also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions described in 9 C.F.R. § 244.2(f)(2). The applicant was admitted to the United States as a B-2 nonimmigrant visitor on December 28, 1998, and was authorized to remain in the United States until June 27, 1999. The applicant was approved for an extension of her B-2 status from June 27, 1999 to December 26, 1999. The applicant's 60-day period for late registration expired on February 24, 2000, more than 6 months prior to the end of the initial registration period on August 20, 1999. The applicant filed her initial TPS application on June 29, 2002, almost three years after the end of the registration period. The applicant filed the current TPS application on December 14, 2004, more than four years after the end of the registration period and her 60–day period for late registration. The applicant has not established eligibility for TPS. Therefore, the application also must be denied for this reason.

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