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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [Redacted] Office: California Service Center Date: **MAY 21 2007**
[WAC 05 118 75364]

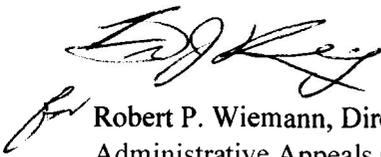
IN RE: Applicant: [Redacted]

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, California Service Center, and is now before the Administrative Appeals Office (AAO) 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 record reveals that the applicant filed a late initial TPS application on June 24, 2003, under CIS receipt number SRC 03 188 54136. The director, Texas Service Center, denied that application on January 7, 2004, because the applicant failed to establish her entry into the United States prior to December 30, 1998; her continuous residence in the United States since December 30, 1998; and, her continuous physical presence in the United States since January 5, 1999. The record reflects that the applicant filed a subsequent appeal and the AAO Director dismissed the appeal and affirmed the director's decision, on February 3, 2006.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 26, 2005, under CIS receipt number WAC 05 118 75364, and indicated that she 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 re-registration for TPS.

On appeal, the applicant reasserts her claim of eligibility to file a late initial registration as the minor child of a TPS registrant. With her appeal, in an attempt to establish her continuous residence in the United States and her continuous physical presence, the applicant submits photocopies of:-

- Nicaragua birth certificate, with an English translation;
- A marriage certificate for her parents, with an English translation;
- 7 CIS notices, and a CIS case computer status summary;
- An Appeal Brief, signed on behalf of the applicant by [REDACTED] the applicant's parent, with a supporting affidavit by [REDACTED] attesting that the applicant's initial TPS application incorrectly stated September 2001 as her date of entry, but the applicant has been living with him in the United States since 1998;
- A CIS letter, dated June 27, 2003, returning a fee overpayment;
- School records and award certificates for the applicant, dated in 2001 – 2005; and,
- An Appointment Slip from Family Health Center, Inc.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

In addition, the applicant has not submitted sufficient evidence to establish her continuous residence and her continuous physical presence in the United States during the requisite period. As noted by the AAO Director in the dismissal decision, documentation from the school registrar indicates a date of entry into the school as October 2001 for the applicant, and her father's assertion of the applicant's attendance at school prior to this date was not supported by the evidence submitted; and, medical receipts (submitted with the initial appeal) are inconclusive, and appear to be modified. The AAO Director also noted that a review of the record of the applicant's father [REDACTED] reveals that on his initial TPS applications filed on June 30, 1999, and on July 18, 2001, he listed the applicant as being in Nicaragua. However, she was listed on her father's TPS application submitted on June 25, 2002 as present in the United States at that time. The applicant did not address these issues on appeal, and new evidence does not overcome these discrepancies.

In addition, the applicant has submitted questionable documentation in an attempt to establish her eligibility for TPS. Specifically, the applicant submitted an Appointment Slip from Family Health Center, Inc., which appears to have been altered to reflect an appointment date from "12/5/01" to "12/5/99". It is the applicant's responsibility to address discrepancies in her documentation. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the entry dates in the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish her continuous residence and continuous physical presence in the United States during the requisite period. Therefore, the application will also be denied for these reasons.

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 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.