



U.S. Citizenship
and Immigration
Services

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FILE:



[WAC 05 047 73448]

Office: California Service Center

Date: **NOV 28 2007**

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".
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 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 May 30, 2002, under CIS receipt number SRC 02 188 55463. The Director, Texas Service Center, denied that application on July 17, 2002, because the applicant failed to submit evidence to establish eligibility for late initial registration. The record reflects that a subsequent appeal to the Administrative Appeals Office (AAO) was dismissed by the AAO Director (now Chief) on October 31, 2002. The applicant filed a motion to reopen/reconsider the AAO's decision on November 27, 2002, under CIS receipt number SRC 03 042 52825. The Director, Texas Service Center, dismissed the motion on December 4, 2002. A subsequent appeal was dismissed by the Chief, AAO, in a separate decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 10, 2004, under CIS receipt number WAC 05 047 73448, 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.

On appeal, the applicant states that he has been in the United States since 1997, and that he would like the opportunity to live and work freely to support his family. With the appeal, in an attempt to establish eligibility for TPS, the applicant submits copies of:

1. Two Bank of America account statements showing an ending balances in 2005;
2. Three Ten (10) Day Notice of Intent to Cancel, and a Standard Cancellation Notice, from Florida Insurance Grp. of Miami, issued in 2005;
3. Three time records from Skilled Services Corporation, two dated December 2004, and one undated;
4. A pre-approval letter from Capital One which shows an offer expiring on January 17, 2005;
5. An automobile insurance notice, dated September 7, 2004;
6. Two direct deposit advice notices from Skilled Services Corporation, issued in 2005;
7. A receipt from Skilled Services Corporation, dated February 18, 2005;
8. Two Bank of America letters and an Accidental Death Insurance activation form, dated November 20, 2004;
9. A policy change letter, from Florida Insurance Grp, dated January 3, 2005;
10. An undated letter from Staffing Concepts, Inc.;
11. An SRC policy coverage information sheet, dated May 15, 2005; and,
12. An unclear deposit receipt from Bank of America.

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.

It is also noted that the applicant has failed to submit evidence to establish eligibility for late initial registration for TPS.

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 continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. The initial registration period

for Nicaraguans was from January 05, 1999, through August 20, 1999. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on November 16, 2004.

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 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, for this additional reason, the director's decision to deny the application for TPS 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 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.