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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

**APR 16 2008**

[EAC 08 015 51979, *appeal*]  
[EAC 07 290 70448]

INRE:

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 failed to establish that he was eligible for late initial registration.

On appeal, the applicant states that he is eligible for late initial registration because he had filed a Form I-485, Application to Register Permanent Residence or Adjust Status, under the Nicaraguan Adjustment and Central American Relief Act (NACARA).

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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 parole; 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 (t)(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 Nicaraguans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed his application with Citizenship and Immigration Services (CIS), on June 27, 2007.

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.

On appeal, the applicant states that he is eligible for late initial registration because he had filed a Form 1-485 under NACARA.

The record reflects that on August 30, 2002, his Form 1-485 under NACARA was denied because he had not established his presence in the United States prior to December 1, 1995. While the applicant's pending 1-485 rendered him eligible for late registration, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of such conditions. 8 C.F.R § 244.2(g). In this case, since the applicant's 1-485 was denied on August 30, 2002, his 60-day period for late registration expired on October 29, 2002. The applicant filed his application for TPS with the director on June 27, 2007.

The applicant has not submitted any evidence to establish that she has met any of the other 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.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.