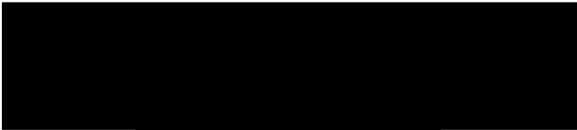




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

MI



FILE: [REDACTED]  
[EAC 07 174 70050]

OFFICE: VERMONT SERVICE CENTER

DATE: JAN 16 2008

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.

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 claims to be 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 director denied the application because the applicant failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts that he has been in the United States since 1997, and that he has never been in any trouble.

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.

The phrase *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

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 reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on March 22, 2007.

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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. 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.

On June 8, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on August 8, 2007. On appeal, the applicant states that he has provided all of documents required by CIS. Nonetheless, the applicant submitted no documentation to establish his eligibility for late registration.

The applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. 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, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

As stated above, the applicant was requested on June 8, 2007, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. Documentation submitted by the applicant with his application and in response and in response to the request for evidence includes the following documentation:

1. Copies of money order receipts dated in 1998, 1999, 2000 and 2003. These documents do not show a purchaser, recipient, or address and therefore do not provide evidence of the applicant's presence and residency in the United States.
2. Copies of money order receipts dated in 2000 through 2006 showing the applicant as the remitter.
3. Copies of pay stubs from Cutter Construction Corp., dated in 2001. The stubs do not show the company's address or an address for the applicant.
4. A copy of an invoice from Prestige Paging in Miami, Florida dated June 25, 2002.
5. A copy of an October 25, 2002 Cablevision receipt for the applicant with an address in Asbury Park, New Jersey.
6. Copies of pay stubs from Toppino Construction Company, Inc. dated in 2002. The stubs do not show the company's address or an address for the applicant.

7. A partial copy of a March 13, 2003, receipt from Norwood Auto Parts. The receipt does not show the applicant as the purchaser and contains no other indication that it was issued to the applicant.
8. Copies of drug store receipts for the applicant in Asbury Park dated April 29, 2003.
9. A copy of a May 17, 2003, receipt from PepBoys in Ocean, New Jersey, showing the applicant with an address in Miami, Florida.
10. Copies of U.S. Postal Service receipts dated June 9, 2003, and August 7, 2003. The receipts do not contain a purchaser's name or address.
11. Copies of a receipts from Cablevision, dated August 15, 2003, and September 19, 2003, showing the applicant with an address in Asbury Park, New Jersey.
12. A copy of a December 24, 2003, telephone service receipt showing the applicant with an address in Asbury Park, New Jersey.
13. A copy of a January 16, 2004, receipt from the Hardware Store in Asbury Park. The receipt is for a cash sale and contains no evidence that it was issued to the applicant.
14. A copy of an April 11, 2005, receipt for the applicant from Asbury Getty in Asbury Park, New Jersey.
15. A copy of a January 19, 2007, automobile receipt from Pete LaVance Auto Repair in Neptune, Florida showing the applicant with an address in Asbury Park, New Jersey.
16. A copy of a Mateo Express money order receipt dated February 11, 2007, showing the applicant as the sender, with an address in Asbury Park, New Jersey.

The director concluded that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant submits the following additional documentation:

17. Copies of money transfer receipts from Contamar in Elizabeth, New Jersey, purportedly dated December 3, 1998, May 11, 1999, April 20, 1999, and May 5, 1999.
18. Copies of receipts issued to the applicant dated in 2001 and 2002, issued by JAV Insurance Agency in Miami, Florida. The applicant also submitted a copy of an August 15, 2002, receipt for insurance on a 1989 Honda civic and a copy of a payment coupon for Vanguard Finance Company in Miami, showing a due date of May 1, 2002.

19. A partial copy of a motor vehicle sales tax receipt for the Commonwealth of Pennsylvania. The receipt indicates that the registration is valid from December 19, 2002, to September 30, 2003. The receipt shows the applicant with an address in Philadelphia, Pennsylvania.
20. A copy of a June 26, 2003, receipt for payment of a Cablevision bill. The receipt does not show the customer or a customer address.
21. A partial copy of a November 2003 receipt for the applicant in Asbury Park, New Jersey. The receipt does not show the vendor.
22. Copies of the April 7, 2004, June 7, 2004, February 7, 2005, and August 7, 2007, and December 7, 2006, Sprint phone bills for the applicant. The bills do not show the applicant's address. The applicant also submitted a copy of an August 10, 2006, Sprint over-the-counter receipt and a December 17, 2006 bill payment receipt issued to the applicant.
23. A copy of a December 15, 2005, receipt. The receipt does not identify a vendor and contains the applicant's first name only.
24. A copy of a January 29, 2006, Cablevision bill, showing the applicant with an address in Neptune, New Jersey.
25. Copies of February 16, 2006, labels for medication showing the applicant as the patient and purchased in Neptune, New Jersey.
26. A copy of an April 8, 2006, PreCash Card Request Transaction Receipt, showing the applicant as the customer with an address in Asbury Park, New Jersey.
27. Copies of receipts from Sprint, Sears, and Radio Shack dated in 2007. The receipts do not show the applicant's name and contain no other information that would indicate that they were issued to the applicant.
28. A copy of an April 2007 receipt from New Jersey Natural Gas for the applicant in Neptune, New Jersey.
29. A copy of a Pennsylvania MV-38 O, Application for Duplicate Certificate of Title by Owner. The document is not dated and contains no evidence that it was filed with the Commonwealth of Pennsylvania.

We note that the documentation submitted by the applicant shows addresses in different cities and states, including Florida, New Jersey, Pennsylvania, and North Carolina, sometimes with overlapping periods. We further note that the record contains copies of money order receipts from MoneyGram, indicating that they were issued in 1998, 1999 and on June 8, 2000. However, the date of the form indicates that the company copyrighted it in 2000, with a revision date of August 2000. Therefore, it is unlikely that they would have

been used to document purchase of money orders prior to those dates. Additionally, although the copies of money transfer receipts from Contamar purport to be dated in 1998 and 1999, each of the dates have been altered from the year 2000. 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 apparent alteration of the money order receipts. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c).

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.