

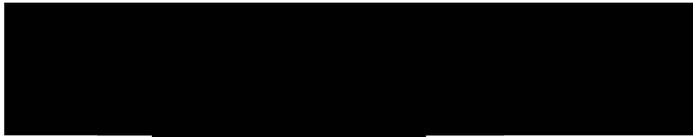
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U.S. Department of Homeland Security
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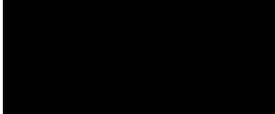


**U.S. Citizenship
and Immigration
Services**

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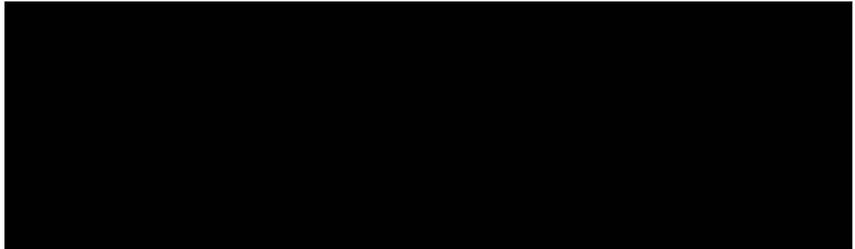
Office: VERMONT SERVICE CENTER

Date: JAN 23 2008

consolidated herein]
[EAC 06 334 77478]

INRE:

Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 V.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.

John H. Vaughan
for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant, who claims to be a citizen of Nicaragua, 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 she is a national of a foreign state designated under section 244(b) of the Act.¹

On appeal, the applicant states that she is a citizen of Nicaragua, not Mexico or Honduras. In support of her appeal, the applicant submits a photocopy of the biographic page of a Nicaraguan passport issued to her by the Nicaraguan Consulate General in Miami, Florida, on December **1,2006**.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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;

¹ The director's decision stated that the applicant had failed establish "you are a citizen or national of Honduras." However, this is obviously an editorial error and should have read "... you are a citizen of Nicaragua..." since the director had previously discussed in his decision the discrepancies involved in the applicant's previous claims to both Mexican and Nicaraguan nationalities. (See following discussion.)

- (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 (e)(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 reveals that the applicant filed her initial Form 1-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on August 14, 2006 – almost seven years after the initial registration period had ended.

To qualify for late registration, the 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(e)(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).

A review of CIS records indicates that:

1. on September 29, 1993, the applicant filed a Form 1-589, Request for Asylum in the United States, indicating that she was a native of Nicaragua;
2. on July 16, 1997, filed a Form 1-130, Petition for Alien Relative, on the applicant's behalf to qualify her as the spouse of a Lawful Permanent Resident (LPR).² On December 6, 1997, the applicant was issued a letter by the National Visa Center, Portsmouth, New Hampshire, indicating that she qualified under preference category F2A as the spouse of an LPR, with a priority date of July 15, 1997, under the Foreign State Chargeability of Mexico; and,
3. on January 7, 2000, the applicant filed a Form 1-360, Petition for Amerasian, Widow, or Special Immigrant, (EAC 99 279 51993 relates), indicating that she was a native of

² Neither the Form I-130, nor a photocopy thereof, is contained in the record of proceedings.

Mexico. The application was denied on March 15, 2002, because the applicant failed to respond to a request for evidence required in connection with her application. A motion to reopen that decision, filed by the applicant on May 20, 2002, was dismissed by the VSC on June 13, 2002.

Thus, there are discrepancies in the documentation of record pertaining to the applicant's nationality. Although the applicant claimed to be a native of Nicaragua in 1993, from 1997 through 2002 she presented herself as a native of Mexico, which is not a country that has been designated for TPS benefits. It is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. Furthermore, doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *Matter of Ro*, 19 I&N Dec. 582. (Corom. 1988). The discrepancies in the applicant's submissions regarding her nationality have not been explained.

It is concluded that the applicant has failed to establish that she is a national of a foreign state designated under section 244(b) of the Act. Consequently, the director's decision to deny the application on this ground will be affirmed.

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.