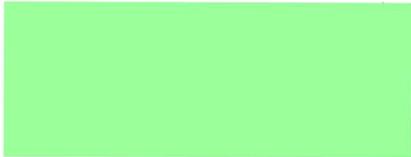




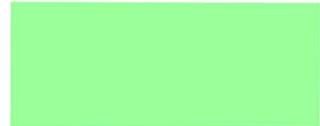
U.S. Citizenship  
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Services

(b)(6)

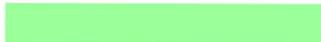


DATE: NOV 03 2014

Office: VERMONT SERVICE CENTER



IN RE: Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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. On March 12, 2014, the director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant asserts that he filed a petition under the Nicaraguan and Central American Relief Act (NACARA) and it is still pending.

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 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 Secretary 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 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 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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until January 5, 2015, upon the applicant's re-registration during the requisite period.

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. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

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 AAO conducts appellate review on a *de novo* basis. See *Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

The record reveals that the applicant filed this TPS application on July 15, 2013. On November 15, 2013, 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, in response, only provided documentation establishing his continuous residence and continuous physical presence in the United States during the requisite periods and court documentation reflecting one misdemeanor conviction.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application.

Contrary to the applicant's assertion, he does not have an application filed under NACARA that is currently pending. USCIS records reflect that on March 31, 2000, the applicant filed a Form I-485,

Application to Register Permanent Residence or Adjust Status [REDACTED] as a NACARA applicant. On May 16, 2000, the Form I-485 was rejected as the correct fee was not provided. The Form I-485 and incorrect fee were returned to the applicant with instructions to resubmit with the correct fee. These documents were returned to the address listed on the Form I-485. The record does not contain any evidence that the applicant re-submitted the Form I-485 with the correct fee.

Although the applicant indicated on the current TPS application that he had no alien registration number, USCIS records reflect that he was previously assigned [REDACTED]. Along with the Form I-485 mentioned above, this record contains the following:

- A Form I-821, Application for Temporary Protected Status [REDACTED] and Form I-765, Application for Employment Authorization [REDACTED] filed on August 8, 2001. The Form I-765 was approved<sup>1</sup> and the approval notice was sent to the applicant at his address of record at the time. The notice, however, was returned undeliverable. The Form I-821 was denied by the Director, Texas Service Center, on February 11, 2003, due to abandonment, and the decision was also returned as undeliverable.
- A Form I-765 ([REDACTED]) along with Form I-821 submitted on July 1, 2002. In a rejection notice (Form I-797C) dated July 18, 2002, the applicant was advised that the Form I-765 was rejected as the required fee was not provided or was incorrect.

In a handwritten statement on the Form I-797C, the applicant indicated that in 1999, he applied for TPS “and paid in full and I don’t receive any notice of action.” The record, however, contains no evidence that a TPS application had been filed during the initial registration period of January 5, 1999 through August 20, 1999, and the applicant does not provide any evidence to corroborate his statement. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The attempted filing

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<sup>1</sup> The fact that the applicant was granted employment authorization (C-19) is not evidence that he was approved TPS. Based upon filing of the Form I-821, an applicant is afforded temporary treatment benefits and is issued employment authorization upon establishing *prima facie* eligibility for TPS pursuant to 8 C.F.R. § 244.5(b). As provided in 8 C.F.R. § 244.13(a), temporary treatment benefits terminate upon a final determination with respect to the alien’s eligibility for TPS.

of the Form I-485 does not meet this provision as it was submitted subsequent to the initial registration period. Accordingly, 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 decision to deny the application for TPS will be affirmed.

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.