



U.S. Citizenship  
and Immigration  
Services

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FILE:

[EAC 07 312 74956]

Office: VERMONT SERVICE CENTER

Date: SEP 02 2008

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".

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 (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a 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 director determined that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he has resided in United States since December 30, 1998 and been physically present in the United States from January 5, 1999 to the present. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

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 as 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 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.

*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.

*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. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for Nicaraguans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed this application on August 1, 2007.

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 Citizenship and Immigration Services (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 proceeding 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 from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed 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).

On October 9, 2007, the applicant was provided the opportunity 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 continuous residence in the United States since December 30, 1998 and his continuous physical presence in the United States from January 5, 1999 to the date of filing the application. The director initially determined that the applicant failed to respond to the notice and denied the application as abandoned. However, the director subsequently reopened the case and the applicant provided evidence in an attempt to establish

continuous residence and continuous physical presence during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he has resided in the United States since December 30, 1998 and has been physically present in the United States from January 5, 1999 to the present. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application 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 failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are 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 October 9, 2007 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. A letter from [REDACTED], Human Resource Manager, [REDACTED]
2. An Insurance History Statement from Progressive Direct, and copies of a Personal Automobile Policy issued on March 29, 1996, a Reinstatement Notice effective February 19, 1997, and an Automobile Policy Renewal Certificate, copies of a New Business Application dated March 31, 1996 and an Indiana Private Passenger Auto Application dated March 29, 1996 from Atlanta Casualty Insurance Company.
3. Copies of an Indiana Financial Responsibility Insurance Certificate dated May 27, 1997.

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

4. Copies of letters from [REDACTED], a Safety Training Certification Form dated January 27, 2001, and a Nu-Tec Identification Card issued in September 2001.
5. Copies of an Indiana Application for Certificate of Title dated October 2, 2001, an Automobile Registration Card issued on October 12, 1999, a vehicle registration renewal application dated March 15, 2007, and an Indiana Resident Fishing License dated April 24, 2004.
6. Copies of a Progressive Privacy Policy updated on May 9, 2001, Auto Insurance Bills with due dates of August 8, 2005, January 8, 2006, March 8, 2006, May 8, 2007, a renewal reminder with a due date of November 8, 2005, and a Progressive Insurance Identification Card dated November 8, 2005.

7. Copies of earnings statements dated from December 29, 2001 to May 19, 2007.
8. Copies of Bank One/Chase statements for periods ending on December 5, 2002 to January 7, 2008, and a letter from Chase dated January 30, 2008.
9. Copies of a Payment Slip dated December 28, 2005, and an account statement for the period ending October 3, 2005 from Macy's, a dentist appointment reminder for a July 6, 2005 appointment, dentist bills dated May 12, 2005, July 5, 2005, and April 30, 2007, an AAA Temporary Membership Card with an expiration date of October 5, 2005.
10. Copies of Billing Summaries from IPL with due dates of July 7, 2005, August 3, 2005, and August 29, 2005, October 4, 2005, January 30, 2006, February 28, 2006, and March 27, 2006, Verizon bills dated August 26, 2005, May 26, 2005, January 26, 2006, February 26, 2006, September 26, 2006, November 20, 2006, February 20, 2007, April 21, 2007, July 21, 2007, September, 21, 2007, October 21, 2007, December 21, 2007, and February 21, 2008.
11. Copies of Toyota service reminders dated January 26, 2005, and June 6, 2006, Red Roof Inn receipts dated January 5, 2005, August 1, 2005, and October 28, 2006, a Comfort Inn receipt dated May 12, 2006, Super 8 Motel receipts dated October 24, 2006, May 4, 2007, and May 22, 2007, and an Avis receipt dated April 7, 2006.

states that his company employed the applicant as a roofing laborer from September 9, 1998 to June 28, 1999, from August 2, 1999 to October 4, 1999, and from December 26, 2000 to April 22, 2004. However, the statements from have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment.

The copies of the Insurance History Statement, the Personal Automobile Policy, the Reinstatement Notice, the Automobile Policy Renewal Certificate, the New Business Application, the Indiana Private Passenger Auto Application and the Indiana Financial Responsibility Insurance Certificate indicate the applicant was present in the United States prior to December 30, 1998. However, these documents cannot establish the applicant's continuous residence and continuous physical presence during the qualifying period. Similarly, the Automobile Registration Card indicates a date of October 12, 1999, and is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, the evidence presented is of little or no probative value.

The applicant has not submitted sufficient evidence to establish his continuous residence in the United States since December 30, 1998 and his continuous physical presence in the United States since January 5, 1999. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

Beyond the director's decision, it is noted that although the applicant has submitted a copy of a birth certificate with English translation, it was not accompanied by photo identification. The applicant has also

failed to provide a passport or any national identity document from the alien's country of origin bearing photo and/or fingerprint to establish his nationality and identity. Therefore, the application must be denied on this basis as well.

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.