



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 27125801

Date: JUNE 12, 2023

Appeal of Texas Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of Nicaragua seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

The Director of the Texas Service Center denied the Form I-821, concluding that the Applicant did not establish as required that he either registered for TPS during the initial period, or that he was eligible for late initial TPS filing.¹ The matter is now before us on appeal.

On appeal, the Applicant does not dispute ineligibility for late initial TPS filing under the Nicaraguan designation.² Rather, he states that he is seeking TPS and related benefits pursuant to the preliminary injunction ordered by the U.S. District Court in *Ramos et al. v. Nielsen*, 336 F.Supp.3d 1075 (N.D. Cal. Oct. 3, 2018) (*Ramos*).³

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

¹ The Director incorrectly referred to the Applicant as a Salvadorean national, referencing the initial TPS filing period under the designation of El Salvador for such status. These errors do not affect our de novo adjudication on appeal.

² See *Designation of Nicaragua Under Temporary Protected Status*, 64 Fed. Reg. 526 (Jan. 5, 1999). To meet the initial registration requirements, Nicaraguan nationals must have applied for TPS during the initial registration period from January 5, 1999, through July 5, 1999. Individuals who did not register within the above time frame could apply during any subsequent registration period, if they met one of the late registration conditions set forth in 8 C.F.R. § 244.2(f)(2) or (g). The Applicant did not provide evidence of eligibility for late initial TPS filing, even though the Director issued a notice of intent to deny giving him an opportunity to do so.

³ A panel of the U.S. Circuit Court of Appeals for the Ninth Circuit (Ninth Circuit) vacated this preliminary injunction in *Ramos, et al. v. Wolf, et al.*, 975 F.3d 872 (9th Cir., Sept. 14, 2020); however, because the plaintiffs requested rehearing en banc, the court's decision is not final and the injunction remains in effect. See USCIS, *Temporary Protected Status Designated Country: Nicaragua*, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-nicaragua>

On January 5, 1999, the Secretary of Homeland Security designated Nicaragua for TPS.⁴ Although the designation was terminated effective on January 5, 2019,⁵ beneficiaries under the TPS designation for Nicaragua will retain their TPS for as long as the preliminary injunction in *Ramos* is in effect, provided that they remain individually eligible for TPS. See *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal*, 87 Fed. Reg. 68717 (Nov. 16, 2022). However, only *current beneficiaries* who properly registered their status during either the most recent registration period for their country, or any applicable previous re-registration periods (which for Nicaragua were May 16 – July 15, 2016, or December 15, 2017 – February 13, 2018) are eligible for the extension of TPS documentation and related benefits. *Id.* at 68719 n.5.

Here, the record reflects that the Applicant initially entered the United States without inspection and admission or parole in February 2022, and was placed in removal proceedings. In March 2022, he filed the instant Form I-821, indicating that it was his initial (first time) TPS request and that he did not currently have TPS. The Applicant does not provide evidence that he was previously granted TPS under the Nicaraguan designation and that he subsequently re-registered such status during either of the two periods specified in the Federal Register notice.

Consequently, the Applicant has not established that he is a current TPS beneficiary eligible for continuation of TPS benefits under the Nicaraguan designation pursuant to the preliminary injunction in *Ramos*. His Form I-821 therefore remains denied.

ORDER: The appeal is dismissed.

⁴ See 64 Fed. Reg. 526, *supra*.

⁵ *Termination of the Designation of Nicaragua for Temporary Protected Status*, 82 Fed. Reg. 59636 (Dec. 15, 2017).