



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

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

In Re: 29614691

Date: DEC. 18, 2023

Appeal of Potomac Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a, pursuant to the designation of Venezuela for such status.

The Director of the Potomac Service Center denied the TPS request, concluding that the Applicant did not establish, as required, that he was a national of Venezuela or a person having no nationality who last habitually resided in Venezuela. The matter is now before us on appeal.

The Applicant explains that although he was born in Nicaragua, he considers himself a national of Venezuela because he has been residing there since the 1980s and his spouse and children are Venezuelan citizens. In support, he resubmits copies of his identity documents issued by the government of Venezuela and additional evidence concerning his longtime residence in the country.

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.

On March 9, 2021, the Secretary of Homeland Security designated Venezuela for TPS. *See Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure*, 86 Fed. Reg. 13574 (March 9, 2021).¹ The designation allows eligible Venezuelan nationals who have continuously resided in the United States since March 8, 2021, and have been continuously physically present in the United States since March 9, 2021, to apply for TPS.

¹ The designation was extended in September 2022. *See Extension of the Designation of Venezuela for Temporary protected Status*, 87 Fed. Reg. 55024 (September 8, 2022). In October 2023 the Secretary of Homeland Security extended the designation and redesignated Venezuela for TPS. *See Extension and Redesignation of Venezuela for Temporary Protected Status*, 88 Fed. Reg. 68130 (Oct. 3, 2023).

To qualify for such status, an applicant must establish as a threshold requirement that they are a national² of a foreign state designated for TPS or a noncitizen having no nationality who last habitually resided in the designated country. Section 244(a)(1)(A) of the Act, 8 C.F.R. § 244.2.

Acceptable evidence of nationality, in descending order of preference, may consist of a passport, a birth certificate accompanied by photo identification, or any national identity document from the applicant's country of origin bearing a photo, fingerprint, or both. 8 C.F.R. § 244.9(a).

The record reflects that the Applicant was born in Nicaragua, and later moved to Venezuela. The evidence includes a copy of the Applicant's Nicaraguan birth certificate, as well as copies of his Nicaraguan passports issued to him by that country's government in 2006 and 2013. The record further shows that the Applicant was last admitted to the United States in 2018 as a citizen of Nicaragua with a nonimmigrant U.S. visa, which identifies him as a Nicaraguan national.

We acknowledge that the Applicant had been residing in Venezuela for a long time and that his spouse and children are Venezuelan citizens.³ However, as the Applicant does not submit the requisite evidence of Venezuelan nationality, such as a Venezuelan passport or a similar document, we must conclude that he has not met his burden of proof to establish eligibility for TPS under the Venezuelan designation.

The Applicant therefore has not overcome the basis for the Director's adverse decision and his TPS request remains denied.

ORDER: The appeal is dismissed.

² The term "national" for TPS purposes means "a person owing permanent allegiance to a state." Section 101(a)(21) of the Act, 8 U.S.C. § 1101(a)(21); 8 C.F.R. § 244.2(a).

³ Section 244(a) of the Act does not provide for "derivative" TPS status through a family member. *Matter of Duarte-Luna*, 26 I & N Dec. 325, 326 (BIA 2014).