

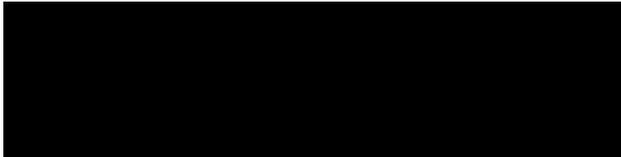
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U.S. Citizenship  
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FEB 10 2005

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date:  
[SRC 05 212 53702]

IN RE: Applicant: [REDACTED]

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.

*Cindy N. Gomez for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant is a native and 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 denied the application after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

The record reveals that the applicant filed his initial TPS application on July 28, 2003. On February 3, 2004, the applicant was requested to submit additional 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 since January 5, 1999. In addition, the applicant was requested to submit photo identification or a national identity document bearing a photograph and/or fingerprint. The record does not contain a timely response from the applicant; therefore, the director concluded that the applicant had abandoned his application and denied the application on March 9, 2004. The applicant's response to the Notice of Intent to Deny, containing only photocopies of four billing statements dated in 1999, was received on March 16, 2004, one week after the director's appropriate denial of the application.

The director's decision of denial advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen within 30 days. The applicant responded to the director's decision on March 29, 2004; however, the director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. As the director's decision was based on abandonment, the AAO has no jurisdiction over this case. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

It is noted that the applicant failed to provide any evidence of his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant also failed to provide photo identification and a national identity document from his country of origin. In addition, it is noted that the applicant failed to submit evidence establishing his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999; the record includes no documentation for the period prior to August 14, 1999, or after December 20, 1999, and, moreover, the submitted documentation appears to have been altered.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The case is remanded to the director for further action consistent with the above and entry of a decision.