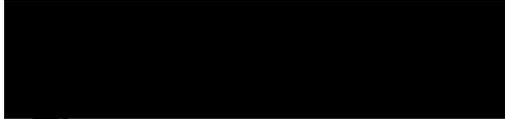




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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FILE: [REDACTED]
[SRC 02 099 54521]

Office: TEXAS SERVICE CENTER

Date: **AUG 04 2006**

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was rejected by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed.

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.

The appeal from the director's decision was rejected by the Director of the AAO because a denial due to abandonment may not be appealed.

A motion to reopen or reconsider must be filed within thirty days of the underlying decision, except that failure to file during this period may be excused at the Service's discretion when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i).

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The previous AAO decision in this case was dated October 22, 2002. Any motion to reopen must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before November 25, 2002. The motion to reopen was received on November 26, 2002.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met because the motion to reopen was not filed within the required time period. Accordingly, the motion to reopen is dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed and the previous decision of the AAO is affirmed.