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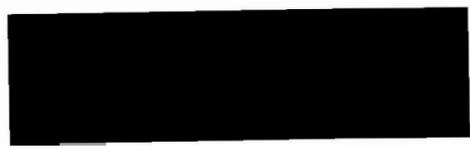
[WAC 05 212 71461]

Office: California Service Center

Date: **DEC 29 2006**

IN RE:

Applicant:

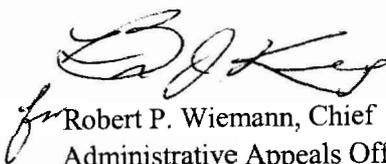


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant is stated 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 record reveals that the applicant filed an initial TPS application on March 23, 1999, under CIS receipt number SRC 99 146 52992. The director approved that application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 30, 2005, under CIS receipt number WAC 05 212 71461, and indicated that she was re-registering for TPS.

The director withdrew the applicant's Temporary Protected Status, and simultaneously denied the re-registration application, on April 26, 2006, because the applicant failed to respond to a notice of intent to withdraw TPS issued by the director on October 7, 2005. It is noted that in the notice of intent to withdraw TPS, the director specifically requested final dispositions for an arrest on November 2, 2001, by the Metro Dade Police Department; an arrest on December 30, 2001 by the Hialeah Police Department; and an arrest on January 7, 2002 by the Hialeah Police Department.

An appeal, or motion to reopen/reconsider, that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

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 director's decision is dated April 26, 2006, and was mailed to the last known address. Any appeal must be properly filed within thirty days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i). Coupled with three days for mailing, the appeal, in this case, should have been filed on or before May 29, 2006. The appeal was received at the California Service Center on June 1, 2006.

It is noted that the applicant's Federal Bureau of Investigation (FBI) results report, completed in connection with her subsequent TPS re-registration application, reflects that the applicant was arrested on November 2, 2001, by the Metro Dade Police Department, and charged with passing forged – uttering forged instrument check, and larceny – grand theft 3rd degree; arrested on December 30, 2001 by the Hialeah Police Department, and charged with Cocaine possession; and arrested on January 7, 2002 by the Hialeah Police Department, and charged with grand larceny. The final court dispositions are not in the record of proceeding. CIS must address these arrests in any future proceedings.

It is also noted that the record reveals that the applicant was placed in Removal Proceedings, and ordered removed to Spain, or in the alternative to Nicaragua, on June 1, 1999, by the Immigration Judge

An alien applying for TPS 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.

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.

ORDER: The appeal is rejected.