



U.S. Citizenship
and Immigration
Services

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MAR 26 2007

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

[WAC 05 048 75187]

IN RE:

Applicant:



APPLICATION:

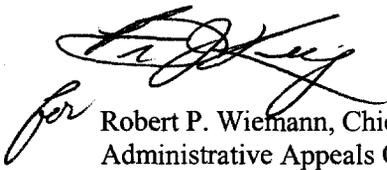
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 application was denied by the Director, California Service Center (CSC). A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed, and the previous decision of the AAO will be affirmed.

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 CSC director denied the re-registration application [WAC 05 048 75187] on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant appealed the CSC director's decision to the AAO on August 18, 2005. The AAO reviewed the record of proceeding and noted that the applicant's initial TPS application [SRC 03 199 55256] was denied by the Director, Texas Service Center, on January 2, 2005, after determining that the applicant had abandoned his application based on his failure to respond to a request to submit evidence to establish: (1) eligibility for late initial registration; (2) continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999; and (3) nationality and identity. The AAO, therefore, affirmed the CSC director's decision to deny the application and dismissed the appeal on March 27, 2006.

On motion to reopen, the applicant reasserts his claim of eligibility for TPS.

Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner. 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 record in this case shows that the AAO issued a decision dated March 27, 2006. Coupled with three days for mailing, the motion, in this case, should have been filed on or before May 1, 2006. The motion was received on August 17, 2006. The applicant neither addressed nor submitted any evidence to demonstrate that the delay was reasonable and was beyond his control.

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

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 motion is dismissed. The decision of the AAO dated March 27, 2006, is affirmed.