

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M₁

JUL 13 2006

FILE:



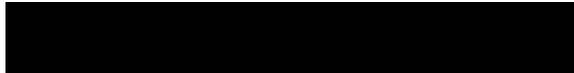
Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 126 75526]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is 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 her initial TPS application on June 26, 2001 under CIS receipt number SRC 01 242 54366. The District Director, Miami, Florida denied that application on March 6, 2004, because the applicant failed to establish her eligibility to file for late initial registration. The applicant filed an appeal from the denial decision. That appeal will be addressed in a separate decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 3, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee 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 of denial, dated June 22, 2005, clearly advised the applicant that 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 July 25, 2005. The appeal was received at the California Service Center on August 17, 2005. It should be noted that the applicant furnished a copy of an envelope which presumably shows that the notice of decision was mailed on July 12, 2005. However, even accepting July 12, 2005 as the date of the denial, the applicant would have been required to submit her appeal on or before the 33rd day, August 14, 2005. As stated above, the appeal was received on August 17, 2005 and is untimely filed.

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

Beyond the director's decision, it is noted that a Federal Bureau of Investigations Fingerprint Report indicates the applicant was arrested on February 25, 2001 by the Collier County Sheriff's Office for "Battery-Domestic Violation." This arrest must be addressed by CIS in any future proceedings.

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



Page 3

ORDER: The appeal is rejected.