



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date: APR 04 2007

[WAC 05 152 72456]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

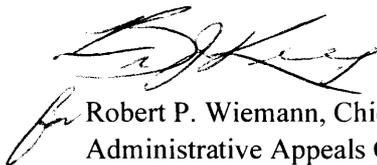
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

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.

  
for 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 applying for 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 a TPS application, on July 2, 2002, subsequent to the initial registration period, under CIS receipt number SRC 02 225 54612. The director, Texas Service Center, denied that application on April 21, 2003, because the applicant failed to establish eligibility for late registration. The record reflects that a subsequent appeal to the AAO was rejected, as untimely, on June 29, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 1, 2005, under CIS receipt number WAC 05 152 72456, and indicated that he was filing an initial TPS application. The Director, California Service Center, categorized the application as a re-registration for TPS, and denied the application on April 6, 2006, as 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).

It is noted that although in the director's decision the applicant was instructed to submit the Notice of Appeal, Form I-290B to the California Service Center, the applicant initially submitted a Notice of Appeal to the Administrative Appeals Office. Upon receipt, the AAO returned the Form I-290B appeal and accompanying documents and fee, to the applicant, on May 10, 2006, with instructions to submit the appeal for the Form I-82 on Form 290-B directly with the California Service Center Director. The director's denial decision is dated April 6, 2006. 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 10, 2006. The appeal was received at the California Service Center on June 6, 2006.

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.

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 appeal is rejected.