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U.S. Citizenship
and Immigration
Services

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APR 20 2004

FILE:



Office: TEXAS SERVICE CENTER Date:

IN RE:

Applicant:



APPLICATION:

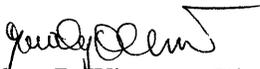
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, Director
Administrative Appeals Office

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

The applicant claims to be 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 determined that the applicant failed to submit evidence to establish that she was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

8 C.F.R. § 103.3(a)(2)(v)(B) states:

Untimely appeal--(1) Rejection without refund of filing fee. An appeal which 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.

(2) Untimely appeal treated as motion. If an untimely appeal meets the requirements of a motion to reopen as described in § 103.5(a)(2) of this part or a motion to reconsider as described in § 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

The applicant, on appeal, claims she came to the United States in 1998. She states she wanted to file an application during the initial registration period, but she was experiencing financial difficulties at the time, and she gave priority to other necessities such as rent and food. The applicant further states that she did not apply for TPS because of her fear of being deported. She submits additional evidence of her residence in the United States. The applicant has not submitted evidence to establish her eligibility for late registration. Thus, the applicant's statement on appeal does not meet the requirements of a motion.

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice 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 decision, dated January 28, 2003, clearly advised the applicant that any appeal must be filed within thirty days. Coupled with three days for mailing, the appeal, in this case, should have been filed on or before March 3, 2003. The Form I-290B, Notice of Appeal, is very clear in indicating that the appeal is not to be sent directly to the AAO office; but, rather, to the "office which made the unfavorable decision." The applicant, nevertheless, sent her appeal to the AAO. The appeal is not considered properly received until it is received by the service center that rendered the unfavorable decision. The appeal was properly received at the Texas Service Center, the office where the unfavorable decision was made, on March 5, 2003.

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

ORDER: The appeal is rejected