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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M1



FILE: [REDACTED]  
[SRC 03 180 54996]

Office: TEXAS SERVICE CENTER Date: DEC 17 2004

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, Director  
Administrative Appeals Office

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

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 director denied the application because the applicant failed to establish she was eligible for late registration.

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 October 3, 2003, 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 November 5, 2003. The appeal was received at the Texas Service Center on January 6, 2004.

It is noted that, on appeal, the applicant states that she applied for TPS "from the first time and resided continuously in Miami, Florida[,] since [her] arrival to the present time." The applicant also states that she filed an earlier application with a person named "Susy" of the company called "El Coyote," in Naples, Florida. The applicant states she will continue to visit that place to see if the preparer could provide a copy of the papers for the applicant to submit. The applicant, however, provides no additional evidence of an earlier filing for TPS. A search of the records of Citizenship and Immigration Services (CIS) does not indicate any prior filing for TPS benefits under the applicant's name and date of birth. In addition, it is noted that the applicant indicated that she entered the United States as a "visitor" and listed her current immigration status as "visitor." The applicant, however, provides no evidence that she has been granted any type of nonimmigrant status in the United States. Therefore, the evidence submitted by the applicant on appeal would not have overcome the finding of the director.

It also is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

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

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.