



U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted]

Office: TEXAS SERVICE CENTER Date:

**JUN 7 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.

*Cindy M. Gomez 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 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 determined that the applicant failed to establish that she met the qualification for late initial registration, as she filed her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The applicant filed her first application on January 24, 2003.

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.

*Untimely appeal--(2) Untimely appeal treated as motion.* If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 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.

On appeal, the applicant states that she wishes to reopen her case so that she can be legal in this country. According to the applicant, she has lived in this country since 1997 and requests that her case be reconsidered. The applicant does not address the issue of eligibility for late registration. Thus, the applicant's submission 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 upon him or her 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 July 23, 2003, clearly advised the applicant that any appeal must be filed within thirty days. Coupled with three days for mailing, in this case, the appeal should have been filed on or before August 26, 2003. The appeal, however was received by CIS on August 28, 2003.

An alien applying for temporary protected status 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. The applicant has failed to meet this burden.

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

**ORDER:** The appeal is rejected.