



U.S. Citizenship  
and Immigration  
Services

MA



FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date:

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center. An appeal was dismissed by the Administrative Appeals Office (AAO). A motion to reconsider was subsequently dismissed by the AAO. The matter is now before the AAO on a second motion to reconsider. The motion will be dismissed.

The applicant is a native and citizen of El Salvador 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submitted additional documentation in an attempt to establish continuous residence and physical presence in the United States during the requisite periods.

The director of the AAO dismissed the appeal on July 8, 2002, after determining that the applicant failed to provide sufficient evidence to overcome the grounds for denial of the application. The director also noted that the applicant had not provided evidence of identity and nationality.

The applicant filed a motion to reconsider the director's decision on August 7, 2002. On motion, the applicant submitted additional evidence of residence and physical presence in the United States and evidence of nationality and identity.

On April 16, 2003, the director of the AAO dismissed the motion, after determining that the applicant had not provided sufficient evidence to establish continuous residence and physical presence in the United States during the requisite periods.

On September 16, 2003, the applicant filed a second motion to reconsider. On motion, the applicant states that she believes she has submitted sufficient evidence of continuous residence and physical presence in the United States during the requisite periods, and she does not understand why her application has been denied.

Any motion to reconsider an action by Citizenship and Immigration Services (CIS) must be filed within 30 days of the decision that the motion seeks to reconsider. 8 C.F.R. § 103.3(a)(2)(1)(i).

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

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 dismissing the prior motion, dated April 16, 2003, clearly advised the applicant that any motion must be properly filed within thirty days after service of the decision. Coupled with three days for mailing, the motion, in this case, should have been filed on or before May 19, 2003. The current motion was received at the Nebraska Service Center on September 16, 2003.

Based upon the applicant's failure to file a timely motion, the motion will be dismissed.

**ORDER:** The motion is dismissed.