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



U.S. Citizenship and Immigration Services

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FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: APR 28 2005  
[SRC 03 033 54587]

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.

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, a minor, 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 that he was eligible for late initial registration. The director also determined that the applicant had failed to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999.

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 April 10, 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 should have been filed on or before May 13, 2003. The appeal, however, was not properly received at the Texas Service Center until May 22, 2003.

On appeal, the applicant states that the director's decision was in error because he has evidence that he has been living in the United States. On the appeal form, the applicant indicates that a brief and/or additional evidence will be submitted within 30 days of the date of the appeal. To date, however, no additional evidence has been received into the record, and the record must be considered complete. The evidence of record contains the visa page of the applicant's Nicaraguan passport, reflecting an entry stamp into the United States at Miami, Florida, on January 21, 1999. The applicant has not submitted any evidence to establish his continuous residence and continuous physical presence in the United States during the requisite periods.

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.