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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[SRC 03 146 54995]

OFFICE: TEXAS SERVICE CENTER DATE: OCT 06 2006

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Chief
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 that 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 is dated June 18, 2003. 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 July 21, 2003. The appeal was received at the Texas Service Center on August 6, 2003.

It is noted that the director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on June 18, 2003.

On appeal, the applicant stated that she believed she had an asylum/adjustment application pending during the initial registration period. She further stated that she submitted her documentation in 1996 to a notary whom she believed was a lawyer, only to have that person move without informing her of the status of her application.

The record of proceedings shows that the applicant's NACARA adjustment application was filed on September 14, 2000, which is subsequent to the initial TPS registration period—March 9, 1999 to August 20, 1999. It is further noted that the Immigration and Naturalization Service denied the NACARA application on May 7, 2002, and that, therefore, there was no approved petition upon which the adjustment of status application could have been based. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, the applicant has failed to submit sufficient evidence to establish continuous residence and continuous physical presence in the United States during the requisite time periods. For these additional reasons, the TPS application will be denied.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.

ORDER: The appeal will be rejected.