



U.S. Citizenship
and Immigration
Services

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FILE:



Office: Nebraska Service Center

Date: JUL 30 2007

[LIN 05 144 52971, as it relates to LIN 03 013 50958]

IN RE:

Applicant:



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.

for 
Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed her initial TPS application, on September 9, 2002, under CIS receipt number LIN 03 013 50958. The director denied that application on March 10, 2003, because the applicant failed to establish her continuous residence, and her continuous physical presence in the United States. A subsequent appeal to the AAO was dismissed on January 2, 2004, after the AAO Chief also determined that the applicant had failed to establish the requisite continuous residence, and continuous physical presence in the United States. The applicant filed this late motion to reopen the AAO decision.

A motion 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 Administrative Appeals Office director's decision of denial is dated January 2, 2004. Any motion to reopen/reconsider 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 motion, in this case, should have been filed on or before February 5, 2004. The motion was received at the California Service Center in March 2005, and was returned on March 31, 2005, with instructions that the motion must be filed with the Nebraska Service Center. The motion was subsequently filed with Nebraska Service Center on April 12, 2005, over a year after the dismissal by the AAO. Based upon the applicant's failure to file a timely motion, the motion will be rejected.

ORDER: The motion to reopen is rejected.