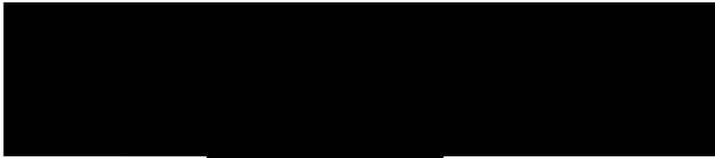




U.S. Citizenship  
and Immigration  
Services

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**invasion** of personal privacy

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FILE:

Office: VERMONT SERVICE CENTER

Date: MAY 23 2008

[EAC 08 034 51504, *motion*]

[WAC 05 062 70040 as it relates to SRC 03 195 54575]

INRE:

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: SELF-REPRESENTED

INSTRUCTIONS:

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

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 applicant filed an initial Form 1-821, Application for Temporary Protected Status, on July 2, 2003, under receipt number SRC 03 195 54575 after the initial registration period had ended. The Director, Texas Service Center, denied the application on September 30, 2003, because the applicant had **failed** to establish that he was eligible for **late** initial registration. The applicant filed an appeal from the denial decision that was dismissed by the Director (now Chief) of the AAO on September 13, 2004, who determined that in addition to the applicant being ineligible for **late** initial registration, he had also **failed** to establish that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999. The Director of the AAO dismissed a motion to reopen on October 19, 2005 and the Chief of the AAO dismissed a second motion to reopen on March 29, 2007.

The applicant filed another Form 1-821 under receipt number WAC 05 062 70040 on December 1, 2004, and indicated that he was re-registering for TPS. The CSC Director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and he was not eligible to apply for **re**-registration for TPS. The applicant filed an appeal from the denial decision and the **Chief**, AAO, dismissed it on March 29, 2007. A subsequent motion was dismissed by the **Chief**, AAO, on September 13, 2007,

A motion to reopen or reconsider must be filed within thirty days of the underlying decision, except that failure to file during this period may be excused at the Service's discretion when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i).

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 previous AAO decision was **dated** September 13, 2007. Any motion to reopen must be filed within thirty days after service of the decision. 8 C.F.R. § 103.5(a)(1)(i). Coupled with three days for mailing, the motion, in this case, should have been filed on or before October 16, 2007. The motion to reopen was received on November 14, 2007.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden **has** not been met because the motion to reopen was not filed within the required time period. Accordingly, the motion to reopen is dismissed and the previous decisions of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed.