

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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prevent clearly unwarranted
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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

AUG 04 2003

FILE: [REDACTED] OFFICE: TEXAS SERVICE CENTER DATE:
SRC 02 223 54669

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

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

Cindy N. Lomez for
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 on appeal. The appeal will be rejected.

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

The director determined that the applicant failed to establish that she had continuously resided in the United States since December 30, 1998, and she had been physically present since January 5, 1999. The director noted in the decision that the applicant did not enter the United States until June 8, 1999. The director, therefore, denied the application.

8 C.F.R. § 103.3(a)(2)(v)(B) states:

Untimely appeal--(1) Rejection without refund of filing fee. An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Untimely appeal--(2) Untimely appeal treated as motion. If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

The applicant, on appeal, submits copies of her previous correspondence in which she inquires about the status of her application for employment authorization. The applicant fails to address the grounds of denial or submit evidence of eligibility for TPS. Thus, the applicant's statement on appeal does not meet the requirements of a motion.

Whenever a person has the right or is required to do some act within a prescribed period after the service of a motion 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 decision, dated October 29, 2002, clearly advised the applicant that any appeal must be filed within thirty days. Coupled with three days for mailing, the appeal in this case should have been filed on or before December 1, 2002. The appeal was dated by the applicant on October 30, 2002, and received on January 21, 2003.



Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.

ORDER: The appeal is rejected.