

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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prevent clearly unwarranted
[REDACTED] privacy

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

FILE: [REDACTED]
SRC 02 204 55682

OFFICE: TEXAS SERVICE CENTER

DATE:

AUG 04 2003

IN RE: Applicant: [REDACTED]

PUBLIC COPY

APPLICATION: Application for Temporary Protected Status under Section 244
of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT [REDACTED]

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. Gomez 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 submit evidence to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 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.

On appeal, counsel for the applicant submits additional evidence of the applicant's residence in the United States. However, counsel does not address the issue of eligibility for late registration. Thus, counsel'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 August 21, 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 September 23, 2002. The appeal was dated by counsel on February 10, 2003, and received on February 18, 2003.

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



ORDER: The appeal is rejected.