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Citizenship and Immigration Services

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



FILE: [redacted]
SRC 02 162 54560

Office: Texas Service Center

Date:

DEC 15 2003

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

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 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.

On appeal, the applicant states that he entered the United States during 1998. He further states that he previously applied for TPS but the documents were returned to him, and he was informed that the program was closed.

8 C.F.R. § 103.3(a)(2) states, in pertinent part, that the affected party shall file an appeal, with fee, including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

8 C.F.R. § 103.3(a)(2)(v)(B)(1) states, in part:

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.

Additionally, 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states, in part:

If an untimely appeal meets the requirements of a motion to reopen as described in § 103.5(a)(2) of this part or a motion to reconsider as described in § 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, claims that he had previously applied for TPS. No evidence, however, was furnished to corroborate his claim, and that the application, with fee, was in fact received by CIS. Accordingly, the applicant's statement, on appeal, does not meet the requirements of a motion.

8 C.F.R. § 103.5a(b) state, in part, that 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

The record reflects that the director denied the application on July 22, 2002. The applicant was advised that he may file an appeal, along with the required fee and any supporting brief, within 30 days of the service of the decision. On November 8, 2002, approximately 4 months after the director's decision, the appeal was received, with fee, at the Texas Service Center, the office where the unfavorable decision was made.

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

ORDER: The appeal is rejected.