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U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE: [Redacted]

Office: TEXAS SERVICE CENTER Date: 11/15/13

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:  
[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

*Robert P. Wiemann*  
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 (AAO) 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. § 1254.

The director denied the application because the applicant failed to establish that he was eligible for late registration.

An appeal 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 director's decision of denial, dated June 10, 2002, clearly advised the applicant that any appeal 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 appeal, in this case, should have been filed on or before July 14, 2002. The appeal was received at the Texas Service Center on October 7, 2003.

On appeal, the applicant states that he has lived in the United States since 1992 and is willing to demonstrate that he has evidence of this. The applicant does not submit any additional evidence on appeal, and does not address the director's stated ground for denial of the application.

The applicant indicated on the Form I-821, Application for Temporary Protected Status, that he had never been in immigration proceedings and indicated at Part 4, Question 2, pertaining to eligibility standards, that he had not been arrested, detained, or convicted. The applicant signed the Form I-821, attesting under penalty of perjury that the information contained therein is true and correct. However, it is noted that the record of proceedings includes charging documents issued on August 27, 2003, placing the applicant in removal proceedings. The applicant was detained and subsequently released on bond on September 12, 2003. The record includes several Notices of Hearing in Removal Proceedings, indicating that the applicant's master calendar hearing was rescheduled with the latest hearing date indicated as December 10, 2003. The Form I-213, Record of Deportable/Inadmissible Alien, dated August 27, 2003, indicates that the applicant came to the attention of Customs and Border Protection (CBP) after being detained for Driving Under the Influence (DUI) in Pasco County, Florida. The Form I-213 also references a positive system check in the National Crime Information Center system. In the "Motion and Memorandum in Support of Bond Determination," filed with the Executive Office for Immigration Review, Immigration Court, Bradenton, Florida, counsel for the applicant in removal proceedings and bond determination, indicates that the applicant came to the attention of Immigration and Customs Enforcement (ICE) "due to an arrest in Hernando County, which may have been dismissed."

The Form I-213 also indicates that the applicant's Request for Asylum in the United States was denied on June 11, 2002. In a letter dated August 18, 2003, the applicant stated that on June 11, 2002, he "received a notice of request for evidence where [he] needed to reply with a copy of the complete application of asylum." The applicant's letter further states that he "did not apply for asylum," and states there has been "confusion with my application and there has [sic] been two Alien numbers assigned to me." The applicant provided the above-referenced alien number in the letter and left blank the remainder of the sentence in which he was to indicate his other alien number.

It is also noted that this record of proceedings does not include the Federal Bureau of Investigation (FBI) report relating to the applicant's fingerprints, or any corroborative documentation relating to the DUI or other charges, or evidence of another alien file number. This record also contains no independent documentation pertaining to a request for asylum in the United States.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

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

**ORDER:** The appeal is rejected.