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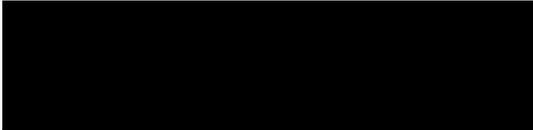
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U.S. Citizenship  
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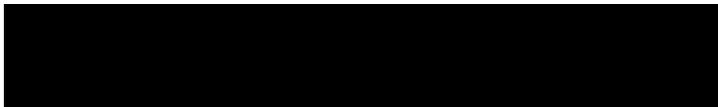
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FILE: [REDACTED]  
[SRC 01 250 54828]

Office: TEXAS SERVICE CENTER Date: DEC 07 2004

IN RE: 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 office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann 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. § 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 March 25, 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 April 28, 2002. The appeal was received at the Texas Service Center on December 4, 2003, almost twenty months after the director's decision.

It is noted that the statements submitted by the applicant on appeal would not have overcome the finding of the director. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 17, 2001. The evidence of record includes the Order of the Immigration Judge, San Antonio, Texas, dated March 25, 2000, in which the applicant was ordered removed from the United States in absentia. The Removal Order further stated that any previously filed application for relief was deemed abandoned by the applicant's failure to appear for immigration proceedings. The applicant was informed that the decision was final unless a motion to reopen was properly filed. The record does not reflect that a motion to reopen was filed in that case.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence and continuous physical presence during the requisite time periods. Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The record includes the Notice to Appear, issued at Eagle Pass, Texas, placing the applicant in removal proceedings following his apprehension by the United States Border Patrol at or near Eagle Pass, Texas, on February 23, 1999. The evidence of record indicates that the applicant has not met the requirements for continuous residence and continuous physical presence in accordance with 8 C.F.R. § 244.2(b) and (c).

It is further noted that the record contains an outstanding Warrant of Removal/Deportation issued on May 12, 2000, at San Antonio, Texas. Further, a Form I-166, issued by the District Director, Miami, Florida, on January 4, 2001, indicates that the applicant also failed to appear for enforced departure to Honduras, scheduled to take place on February 6, 2001.

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

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is rejected.