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U.S. Citizenship
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DEC 14 2004

FILE: [REDACTED]
[SRC 99 236 53392]

Office: TEXAS SERVICE CENTER Date:

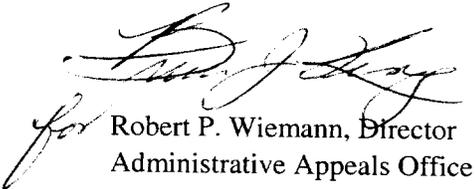
IN RE: Applicant: [REDACTED]

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 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.


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 (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 submit photo identification.

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 December 4, 2003, 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 January 6, 2004. The appeal, however, was received at the Texas Service Center on January 27, 2004. It is noted that the applicant's initial attempt to file the appeal was rejected due to lack of signature, and also was received on January 9, 2004, after the allotted period for the appeal.

It is noted that the statement submitted on appeal would not have overcome the finding of the director. The applicant states that he failed to submit photo identification because he never received notice about the need for additional evidence. The record, however, contains the applicant's submission received on September 18, 2003, in response to the director's request for additional evidence. Further, the applicant, on appeal, did not submit photo identification.

It is also noted that the applicant has not established his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In response to the request for additional evidence, the applicant submitted a letter from [REDACTED] Los Angeles, California, certifying that the applicant "was employed by this Manufacture from April 1995 until June of 1998...." This document is inconsistent with the applicant's stated date of entry and affidavits attesting to his entry into the United States in November of 1998. The applicant offered no clarification for the inconsistency.

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

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

ORDER: The appeal is rejected.