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U.S. Department of Homeland Security
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**U.S. Citizenship
and Immigration
Services**



M

FILE: [REDACTED] Office: Texas Service Center Date: JUN 10 2004

IN RE: Applicant [REDACTED]

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

ON BEHALF OF PETITIONER: 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.

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. § 1254.

The director determined that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration. 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, the applicant states that he is submitting his appeal with evidence showing that he has been in this country since 1998. The applicant does not address the issue of eligibility for late registration. Thus, the applicant's submission 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 notice upon him or her 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 July 15, 2003, clearly advised the applicant that any appeal must be filed within thirty days. Coupled with three days for mailing, in this case, the appeal should have been filed on or before August 18, 2003. The appeal, however was received by CIS on August 25, 2003.

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

ORDER: The appeal is rejected.