



U.S. Citizenship
and Immigration
Services

11/1

[Redacted]

FILE:

[Redacted]

Office: California Service Center

Date:

OCT 28 2004

IN RE:

Applicant:

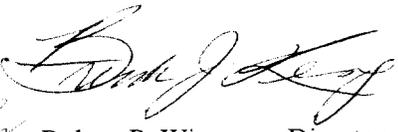
[Redacted]

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

identifying data deleted to
prevent unauthorized
invasion of personal privacy

DUPLICATE COPY

DISCUSSION: The application was denied by the Director, California 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 his eligibility for TPS 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 the Service has 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 November 5, 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 December 8, 2003. The Form I-290B, Notice of Appeal, is very clear in indicating that the appeal is not to be sent directly to the AAO; but, rather, to the "office which made the unfavorable decision." The applicant, nevertheless, sent his appeal to the AAO. The appeal is not considered properly received until it is received by the Service Center that rendered the unfavorable decision. The appeal was properly received at the California Service Center on December 11, 2003.

It is also noted that the record of proceedings contains the Federal Bureau of Investigation report reflecting that the applicant was arrested in Hollister, California, on August 16, 1999 and February 25, 2001, and charged with the offenses of false identification, use of false citizenship, riding a bike under the influence, and failure to appear. The applicant had used the alias of [REDACTED] during his arrest on February 25, 2001. Further, the applicant was arrested in Salinas, California, on February 18, 2002, and charged with the offense of disorderly conduct, under the influence of drugs. CIS must address these arrest and/or conviction(s) in any future decisions or proceedings.

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

ORDER: The appeal is rejected.