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



FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: SEP 18 2009

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on September 9, 2002.

The director initially determined that the applicant had failed to establish that he was eligible for late registration and denied the application on March 27, 2003.

On May 28, 2003, the applicant submitted an untimely appeal of the director's decision. The director treated the appeal as a motion to reopen, and affirmed his decision to deny the application on August 18, 2003.

On August 29, 2003, the applicant attempted to submit a Form I-290B, Notice of Appeal. Because the Form I-290B did not contain the applicant's signature, the form was rejected. The applicant subsequently signed the appeal and it was properly filed with the director on September 25, 2003.

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, dated August 18, 2003, affirming the denial of the application, 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 September 22, 2003. The appeal was not properly filed with the Vermont Service Center until September 25, 2003.

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

ORDER: The appeal is rejected.