



U.S. Citizenship
and Immigration
Services

MM



FILE:



Office: TEXAS SERVICE CENTER

Date:

SEP 17 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

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**Identifying data deleted to
prevent identity unwarranted
invasion of personal privacy**

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 establish that he was eligible for late registration.

It is noted that the director's decision indicates the applicant filed his initial TPS application on April 5, 2002, and that the notice of intent to deny was sent on May 17, 2002. The record reflects, however, that the applicant filed his initial application on January 24, 2003, and that the notice of intent to deny was dated April 18, 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 of denial, dated July 15, 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 August 18, 2003. The appeal was received at the Texas Service Center on August 19, 2003.

It is noted that, on appeal, the applicant states that he applied late for TPS because he was afraid of being deported and due to lack of information. He asks that he be given another chance to be legal in this country and to support his family. The reasons identified by the applicant for not filing during the initial registration period do not fall under the regulatory provisions for late registration. It also is noted that on the Form I-765, Application for Employment Authorization, the applicant indicated his manner of entry into the United States as entry without inspection (EWI) and his current immigration status as "TPS," while on the Form I-821, Application for Temporary Protected Status, the applicant indicated that he entered the United States without inspection, and listed his current immigration status as an "F-1," nonimmigrant student. The applicant, however, presented no evidence to substantiate that he had been granted any type of nonimmigrant status. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

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.

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

ORDER: The appeal is rejected.