



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date:

APR 28 2005

[SRC 02 046 57694]

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

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 El Salvador 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 he had entered the United States prior to February 13, 2001. The director also stated that the applicant had failed to establish his "eligibility for filing after the initial registration period, January 5, 1999 to August 20, 1999."

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 February 25, 2004, 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 March 29, 2004. However, the appeal was not properly received at the Texas Service Center until March 30, 2004.

The director erred in stating that the applicant had failed to establish his "eligibility for filing after the initial registration period, January 5, 1999 to August 20, 1999." These dates specified by the director pertain to the initial TPS registration period for nationals of Honduras and Nicaragua. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on November 26, 2001, during the initial registration period for Salvadoran nationals. This portion of the director's statement, therefore, is hereby withdrawn.

It is noted that the evidence submitted on appeal would not have overcome the finding of the director; the applicant resubmitted evidence that had been previously entered into the record and reviewed. It is noted that the applicant submitted a State of North Carolina Identification Card issued on March 5, 2001, money transfer receipts dated in 2001, and two airmail envelopes from El Salvador addressed to him in North Carolina and postmarked January 11, 2001, and December 23, 2000. However, the applicant has also submitted other evidence that appears to have been altered and that provides conflicting information. The applicant provided a copy of a Social Security card in his name as well as a letter dated August 2, 2001, from the Internal Revenue Service (IRS) issuing him a different Taxpayer Identification Number. The applicant also submitted pay stubs and an IRS Form W-4, Employee's Withholding Allowance Certificate, that reflect yet a third social security number and different marital status. The IRS Form W-4 indicates that it is a 1994 edition, while the signature date is written as March 26, 2001.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of*

Ho, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the use of different social security numbers. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

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.