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

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FILE: [REDACTED]  
[SRC 02 169 53587]

Office: Texas Service Center Date: FEB 02 2005

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

**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 she resided in the United States before December 30, 1998. The director noted that the applicant stated on her I-821, Application for Temporary Protected Status, that she arrived in the United States on June 3, 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 July 30, 2002, 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 2, 2002. The appeal was received at the Texas Service Center on September 13, 2002.

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

It is noted that the July 12, 1999 Order of Release on Recognizance in the record is based on the applicant's illegal entry on or about June 3, 1999 at or near Brownsville, Texas. The applicant failed to appear for her removal hearing on October 26, 1999, and was ordered removed to Honduras in absentia. The applicant filed a Motion to Reopen her removal proceedings which was denied by the Immigration Judge on January 3, 2000. The applicant had 30 days to file an appeal with the Board of Immigration Appeals, but the record does not reflect that she filed an appeal.

An alien applying for TPS 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.

**ORDER:** The appeal is rejected.