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U.S. Citizenship
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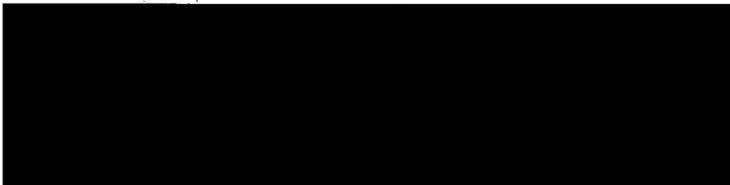
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FILE: [REDACTED]
[SRC 03 183 55783]
[REDACTED]

Office: TEXAS SERVICE CENTER Date: JAN 18 2005

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
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 states that he is a native and citizen of Honduras who is applying for 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.

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 December 4, 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 January 6, 2004. The appeal was received at the Texas Service Center on February 13, 2004.

It is noted that the evidence submitted on appeal would not have overcome the finding of the director. The applicant resubmits a Notice of Hearing in Removal Proceedings dated August 3, 1999, in the name [REDACTED] indicating that the applicant was scheduled for a hearing before the Immigration Judge in Miami, Florida, on September 2, 1999. The records of Citizenship and Immigration Services (CIS) reflect that the Immigration Judge issued a final order of removal on September 2, 1999. The applicant did not submit evidence to establish that he has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2) and (g).

Furthermore, the records pertaining to [REDACTED] indicate that the applicant presented himself as a national of Guatemala in proceedings before the Immigration Judge. It is also noted that in support of his application for TPS, the applicant submitted a copy of a birth certificate with English translation giving his name as [REDACTED] and birthplace as [REDACTED], Honduras. This document appears to have been altered. The information on this birth certificate also conflicts with a document entitled, "State of Florida Identification Card Civilian ID" that lists the birthplace of [REDACTED] as [REDACTED]. This document does not appear to be an official State of Florida identification card. In conclusion, the nationality the applicant claimed and/or established at the time he first came into contact with the Service (now CIS) was that of Guatemala. Guatemala is not a designated foreign state under Section 244 of the Act. The applicant, therefore, also does not meet the eligibility requirements of being a national of a state designated under section 244(b) of the Act.

It is also noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence and continuous physical presence during the requisite time periods. The billing statements and pay stub also appear to have been altered. 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).

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.