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**U.S. Citizenship
and Immigration
Services**

MI



FILE:



Office: TEXAS SERVICE CENTER

Date:

JUL 20 2005

[SRC 02 230 51866]

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 (AAO) on appeal. The appeal will be rejected.

The applicant claims 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 is eligible for late initial registration. The director also determined that the applicant had failed to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 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 her, 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 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). It is noted that the Notice of Denial decision does not bear the date of issuance. The records of Citizenship and Immigration Services (CIS) reflect that the Notice of Denial was sent on July 16, 2003. Coupled with three days for mailing, the appeal, given this date, should have been filed on or before August 18, 2003. The applicant noted on her copy of the denial notice and on the Form I-290B, Notice of Appeal, that the decision was dated January 24, 2004. Coupled with three days for mailing, the appeal, given this date, should have been filed on or before February 26, 2004. The appeal, however, was not received at the Texas Service Center until March 24, 2004.

It is noted that the evidence submitted on appeal would not have overcome the finding of the director that the applicant failed to establish that she is eligible for late registration. On appeal, the applicant states that she is sending the appeal now because she did not have money to file the appeal during the required timeframe. In support of the appeal, the applicant submits documentation relating only to her continuous residence and continuous physical presence in the United States. The applicant has not submitted any evidence that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

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.