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U.S. Citizenship  
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FILE:



[SRC 01 162 57736]

Office: TEXAS SERVICE CENTER

Date: JUN 07 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.

*Cindy N. Gomez*

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 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 her continuous residence in the United States during the requisite period.

It is noted that the director's decision is improperly phrased, as it states that the applicant was required to submit evidence that she "resided in the United States prior to February 13, 2001." The applicant, however, is required to establish her date of entry prior to February 13, 2001, and her continuous residence in the United States since February 13, 2001. It is also noted that the decision letter indicated the receipt number for the applicant's second TPS application marked as a re-registration application, rather than the receipt number for the initial application, as had been included on the requests for additional evidence and the notice of intent to deny.

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 is dated June 12, 2003. Pursuant to the regulations at 8 C.F.R. § 103.3(a)(2)(i), any appeal must be properly filed within thirty days after service of the decision. Coupled with three days for mailing, the appeal should have been filed on or before July 15, 2003. The appeal, however, was not properly received at the Texas Service Center until July 25, 2003.

It is noted that the evidence submitted on appeal would not have overcome the finding of the director. On appeal, the applicant submits additional pay stubs dated between March 8, 2000 and July 19, 2001, in the name of [REDACTED] and bearing a different social security number than was provided by the applicant on her applications and on her 2001 Internal Revenue Service (IRS) Form 8879, IRS e-file Signature Authorization. The director had previously requested that the applicant provide an explanation for the use of the name [REDACTED]. In response, the applicant had stated her first name was spelled incorrectly. It is noted, however, that the applicant's birth certificate, El Salvadoran passport, Texas Identification Card, billing statements, service contract, IRS document, and employer letter contained in the record, reflect her name as [REDACTED]. Therefore, these earlier documents under a different name and social security number are not conclusively linked to the applicant and, therefore, do not establish her continuous residence in the United States during the requisite period.

It is also noted that the applicant submitted insufficient evidence to establish her continuous physical presence in the United States since March 9, 2001.

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.