

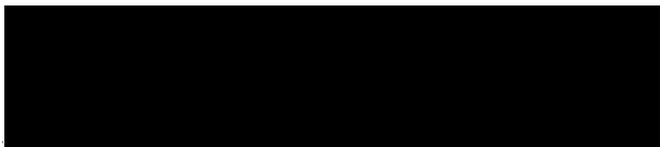
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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U.S. Citizenship
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Services

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FILE: [REDACTED]
[SRC 03 179 53739]

Office: TEXAS SERVICE CENTER Date: JUN 24 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.

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 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 his eligibility for late initial 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 20, 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 22, 2004. The appeal, however, was not received at the Texas Service Center until March 23, 2004.

It is noted that the evidence submitted on appeal, consisting of partial pay stubs, would not have overcome the finding the director. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2) and (g).

It is also noted that the applicant certified on his Form I-821, Application for Temporary Protected Status, that he had not been under any immigration proceedings, and that he entered the United States on September 15, 1997. The record, however, contains documentation relating to the applicant's removal proceedings following his apprehension by the United States Border Patrol while attempting entry into the United States at or near Rio Grande, Texas, on or about August 7, 2000. Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. Because he entered the United States after the requisite dates designated by the Attorney General, the applicant has, therefore, also failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c).

The record also contains a Warrant of Removal issued on July 17, 2001, at Harlingen, Texas, following the final order of removal issued in absentia by the Immigration Judge, Harlingen, Texas.

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.