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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

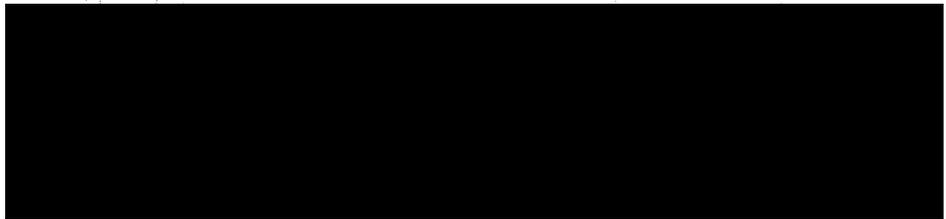
Date:

MAR 10 2005

[SRC 01 252 54846]

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, Jr.

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 he was eligible for late registration.

On appeal, the applicant submits a statement and resubmits documentation that had previously been entered into the record.

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 January 12, 2004, 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 February 16, 2004. The appeal, however, was not received at the Texas Service Center until February 18, 2004.

It is noted that evidence submitted on appeal would not have overcome the ground for denial. 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).

In addition, the applicant has also submitted insufficient evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. The applicant has not submitted any evidence for the period from early 2000 through the filing date of the initial TPS application. He has, therefore, also failed to establish that he has met the requirements under 8 C.F.R. § 244.2(b) and (c).

It is also noted that the applicant indicated on his Forms I-821, Application for Temporary Protected Status, that he had never been under immigration proceedings. However, the record contains a Federal Bureau of Investigation (FBI) fingerprint results report pertaining to the applicant's fingerprints. This report, and the evidence contained in the record, reflects that the applicant, under the name [REDACTED] was deported from the United States to Honduras on May 6, 1998, from Dallas, Texas. The record also indicates that the applicant, under the name [REDACTED] was also previously deported from the United States to Honduras on January 11, 1989.

The FBI report also reflects that the applicant, under the name [REDACTED], was arrested on December 17, 1997, by the Sheriff's Office, Dallas, Texas, and was charged with "1 DWI." The record does not include copies of certified arrest and final court disposition documents. This issue must be addressed in any future proceedings.

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.