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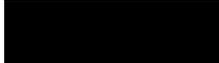
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

OCT 06 2005

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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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is stated to be 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 that she is eligible for late registration. The director also denied the application because the applicant had failed to submit a photo-identification document and had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

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 March 31, 2004,¹ clearly advised the applicant that any appeal must be properly filed within thirty-three days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i).

The applicant attempted to file a Form I-290B, Notice of Appeal, on April 9, 2004. However, the appeal was rejected because the proper fee had not been submitted with the appeal. The record reflects that the appeal was properly filed, with the required fee, on May 3, 2004.

In this case, the appeal was not properly filed within thirty-three days after service of the decision.

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.

¹ The record reflects that the director initially denied the application on December 3, 2003. However, the director reopened the proceedings and issued a second denial notice on March 31, 2004.