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**U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 241 54736]

Office: VERMONT SERVICE CENTER

Date: OCT 06 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, Director
Administrative Appeals Office

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

The applicant claims to be a 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 he was eligible for late registration.

On appeal, the applicant submits a letter and additional documentation.

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 June 9, 2003, 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). In this case, the appeal should have been filed with the VSC on or before July 12, 2003; however, it was not properly filed until November 17, 2003.

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.

It is noted that, beyond the decision of the director, the applicant has not submitted sufficient evidence to establish that he has continuously resided in the United States since December 30, 1998, and has been continuously physically present since January 5, 1999. The applicant has also not submitted an identity document bearing his photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). It is further noted that the applicant filed a second Form I-821 (EAC 03 259 52883) on September 16, 2003, that was denied on February 25, 2004.

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.