

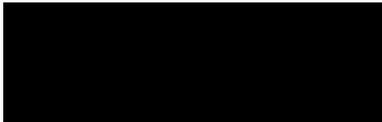


U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

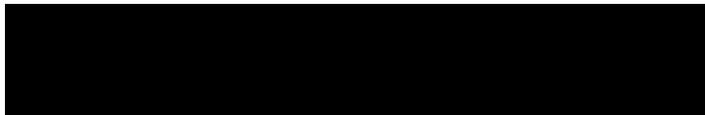
Date: JUL 25 2006

[SRC 03 113 54346]

[SRC 05 036 52053, Appeal]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). The applicant filed an appeal. The Director (now Chief) of the Administrative Appeals Office (AAO) remanded the matter to the TSC Director for issuance of a new decision. While the matter was pending on the initial appeal, the applicant also filed this instant appeal, that is now before the AAO. This appeal will be rejected.

The applicant claims to be 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 record reveals that the applicant filed his initial TPS application on March 13, 2003, under Citizenship and Immigration Services (CIS) receipt number SRC 03 113 54346. The TSC Director initially denied that application on June 23, 2003, for reasons that were not clearly specified. On July 21, 2003, the applicant filed an appeal from the denial decision. The Director of the AAO, on July 5, 2005, remanded the matter to the TSC Director for issuance of a decision that specified the grounds for denial. On October 18, 2005, the TSC Director issued a denial decision specifying that the applicant had failed to establish his eligibility for late initial registration, and his continuous physical presence in the United States since January 5, 1999. The record does not reflect that the applicant has filed an appeal to the TSC Director's October 18, 2005, denial decision.

While the initial July 21, 2003, appeal was pending, and prior to the AAO Director's decision of July 5, 2005, the applicant filed the instant appeal. On appeal, the applicant submits the CIS receipt notice for his March 13, 2003, application for employment authorization. He also submits a letter in which he reiterates that he entered the United States in 1998, states that he has not received an appointment for fingerprinting, and asks that his case be reconsidered. He does not submit any additional evidence in support of the appeal.

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 was dated June 23, 2003. 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 July 28, 2003. The instant appeal, however, was not received at the Texas Service Center until November 22, 2004.

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

Because the instant appeal was issued prior to the AAO Director's decision and the TSC Director's latest decision, this submission will not be considered as a motion to reopen the AAO Director's decision of July 5, 2005, or as an appeal from the TSC Director's decision of October 18, 2005.

It is also noted that the record contains only a photocopy of a birth certificate, with English translation. The applicant failed to submit photo identification or a national identity document from his country of origin bearing a

photograph and/or fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provisions of 8 C.F.R. § 244.9(a)(1).

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.