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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAR 27 2006**

[WAC 05 048 72428]

IN RE:

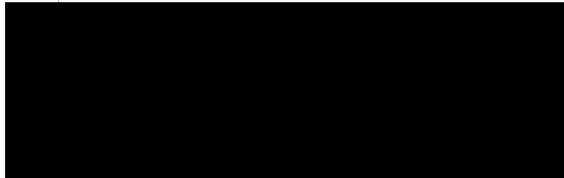
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant is 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 record reveals that the applicant filed his initial TPS application on March 1, 1999, under CIS receipt number EAC 99 188 50347. The record reveals that the director denied that application for TPS on June 6, 2000, due to abandonment.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on November 17, 2004, and indicated that he was re-registering for TPS. On April 21, 2005, the director denied the instant re-registration application because the applicant's TPS had been denied and the applicant was not eligible to apply for re-registration for TPS.

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 or her 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 April 21, 2005, 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 May 24, 2005. Counsel's first attempt to file an appeal was improperly filed because the Form I-290B was not properly signed, and, therefore, was rejected on May 23, 2005. Counsel, on behalf of the applicant, subsequently signed and re-submitted the appeal, which was received at the California Service Center on June 8, 2005.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

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

ORDER: The appeal is rejected.