



U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: APR 20 2007

[EAC 01 231 61349 Form I-821]

[EAC 04 021 54407 Form I-290B]

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, Chief
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 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 her continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

On appeal, the applicant submits a brief statement 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 applicant states on her Notice of Appeal, Form I-290B, that she is filing an appeal from a decision dated April 13, 2004, denying her TPS application (EAC 01-231-61349) filed on July 23, 2001. However, the record reflects that the denial of that application was issued on October 17, 2003. The decision of denial 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 20, 2003. The current appeal was received at the Vermont Service Center on October 18, 2004.

Because the appeal was untimely filed, it will be rejected.¹

ORDER: The appeal is rejected.

¹ It is noted that the applicant, in fact, submitted a timely appeal of the director's October 17, 2003 denial on October 29, 2003. A decision on that appeal will be provided under separate cover.