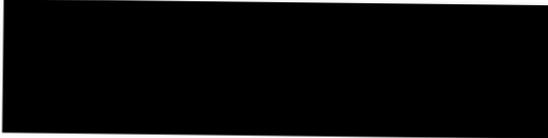


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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]

Office: California Service Center Date:

MAY 29 2007

[WAC 05 800 34386]

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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".
for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a 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 record reveals that the applicant filed an initial TPS application on August 20, 2001, under CIS receipt number SRC 01 248 54564. The Texas Service Center director denied the application, due to abandonment, on June 10, 2003, because the applicant failed to appear for fingerprinting. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, in March 2005, under CIS receipt number WAC 05 800 34386, and indicated that she was re-registering for TPS.

The director denied that application on September 29, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states only that she is still eligible for renewal of her employment authorization card. With the appeal, the applicant submits photocopies of her Employment Authorization Card, that expired on September 9, 2003; a Georgia identification card; and, three pages of her passport, including the biographic page, a page with a United States visa, issued in 1997, and a page with three unclear admission stamps.

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 is dated September 29, 2005. Any appeal must be properly filed within thirty days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i). In this case, the California Service Center sent a notice of decision on September 29, 2005, incorrectly stating that the filing fee as \$110.00. The applicant timely filed an appeal on October 25, 2005. The I-290B and fee were returned to her on October 26, 2005. The applicant did not return the I-290B and correct fee of \$385.00 until September 5, 2006, almost one year later. An appeal is not considered properly filed until the correct fee and completed I-290B are received at the service center. Therefore, her appeal cannot be considered timely.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act.

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.