



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy



FILE: [REDACTED]  
[EAC 06 356 76745]

Office: VERMONT SERVICE CENTER

Date: NOV 05 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the 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 Director, Vermont Service Center (VSC), denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the director issued the decision on March 19, 2007. It is noted that the director properly notified the applicant that he had 33 days to file the appeal. The applicant filed the Form I-290B on May 3, 2007, or, 43 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the AAO. *See* 8 C.F.R. § 103.5(a)(1)(ii). The AAO declines to treat the late appeal as a motion, as it does not meet any of the requirements of a motion to reopen.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.