



U.S. Citizenship
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[REDACTED]

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: OCT 04 2007
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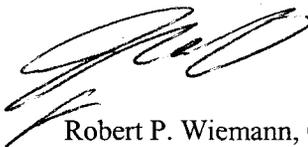
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

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

The applicant is 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 on the grounds that the applicant failed to establish her continuous residence and continuous physical presence in the United States during the requisite periods for TPS applicants from El Salvador.

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 February 20, 2004, clearly advised the applicant the applicant that any appeal of the decision, 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 March 24, 2004. The appeal was received at the Texas Service Center on March 30, 2004.

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

It is noted, in addition, that the applicant has not submitted sufficient evidence to overcome the findings of the TSC Director. The documentation of record, including the materials submitted on appeal, do not meet the evidentiary standards set forth at 8 C.F.R. § 244.9(a)(2) to establish the applicant's continuous physical presence in the United States since March 9, 2001, and continuous residence in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c).

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.