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U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: NOV 28 2008

[WAC 05 252 52665, appeal]

[WAC 05 096 73458]

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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting 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 Honduras who is seeking Temporary Protected Status under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC [REDACTED] after the initial registration period. The Director, Texas Service Center denied that application on July 3, 2003, after determining that the applicant had failed to establish she was eligible for late initial registration. A subsequent appeal was dismissed by the Director (now Chief) of the AAO on August 23, 2004, determined that in addition to the applicant being ineligible for late initial registration, she had also failed to establish that she had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999.

The applicant filed the current Form I-821 on December 28, 2004.

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, dated August 16, 2005, clearly advised the applicant that her appeal must be filed by September 19, 2005, as any appeal must be properly filed within thirty days after service of the decision, coupled with three days for mailing. 8 C.F.R. § 103.3(a)(2)(i). The appeal was not received at the Vermont Service Center until September 20, 2005.

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

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.