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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

APR 05 2004

FILE: [redacted] Office: TEXAS SERVICE CENTER Date:

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

The applicant is a native and citizen of Honduras 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 noted that the Federal Bureau of Investigation (FBI) report reflects that the applicant was arrested on September 27, 1992, on July 16, 1995, on October 10, 1995, and on June 16, 2002. He determined that in response to his request for additional evidence on January 21, 2003, the applicant failed to submit the court dispositions for the July 1995 and October 1995 charges. The director further determined that the applicant failed to submit evidence, as had been requested, to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

On appeal, the applicant submits additional evidence in an attempt to establish his residence in the United States.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The applicant did not register his initial application until May 17, 2002.

Pursuant to section 244(c)(2)(B)(i) of the Act and the related regulations in 8 C.F.R. § 244.4(a), an alien shall not be eligible for temporary protected status if the Attorney General [now the Secretary of the Department of Homeland Security (the Secretary)] finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States.

8 C.F.R. § 103.3(a)(2) states, in pertinent part, that the affected party shall file an appeal, with fee, including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

8 C.F.R. § 103.3(a)(2)(v)(B)(1) states, in part:

> An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Additionally, 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states, in part:

> If an untimely appeal meets the requirements of a motion to reopen as described in § 103.5(a)(2) of this part or a motion to reconsider as described in § 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

The applicant's statement, on appeal, does not meet the requirements of a motion.

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 record reflects that the director denied the application on April 14, 2003. The applicant was advised that he may file an appeal, along with the required fee, within 30 days of the service of the decision. On May 21, 2003, approximately 37 days after the director's decision, the appeal was received, with fee, at the Texas Service Center, the office where the unfavorable decision was made.

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

ORDER: The appeal is rejected.