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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]

MAR 11 2004

FILE: [redacted] Office: Texas Service Center Date:

IN RE: Applicant: [redacted]

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

ON BEHALF OF PETITIONER: 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.

Cindy M. Gomez for

Robert P. Wiemann, Director
Administrative Appeals Office

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 determined that the applicant failed to establish that he met the qualification for late initial registration, during the period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

8 C.F.R. § 103.3(a)(2)(v)(B) states:

> *Untimely appeal--(1) Rejection without refund of filing fee.* 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.
>
> *Untimely appeal--(2) Untimely appeal treated as motion.* If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 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.

On appeal, the applicant states that he did file his TPS and work permit applications timely on "July 3, 2003." The applicant actually filed his application on July 3, 2002. The applicant's submission does not meet the requirements of a motion.

It is noted that the applicant submitted evidence that he was admitted as a B-2 visitor, for pleasure at Houston, Texas on June 28, 1999 with a period of admission valid through August 31, 1999. This would indicate that the applicant did fit the criteria of late registration under 8 C.F.R. § 244.2(f)(2)(i). The applicant, however, did not file his application for TPS until 2002; therefore, he did not comply with the requirements of 8 C.F.R. 244.2(g) requiring a filing of a TPS application within 60 days of termination of the conditions identified under (f)(2) above.

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 decision clearly advised the obligor that any appeal must be filed within thirty days, in this case on or before May 15, 2003. The appeal was received by CIS on June 30, 2003.

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

ORDER: The appeal is rejected.