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

PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

[redacted]

M1

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAY 21 2004

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.

per 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 submit evidence to establish that she was eligible for filing after the initial registration 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.
>
> *(2) Untimely appeal treated as motion.* 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, on appeal, states that she is the mother of a child who was born in the United States. She states that she is now separated from the child's father, and she is filing the appeal because she needs to obtain permission to work. The applicant does not indicate that she is filing a separate written brief or statement. Moreover, she does not address the issue of eligibility for late registration. Thus, 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 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, dated April 22, 2003, clearly advised the applicant that any appeal must be filed within thirty days. Coupled with three days for mailing, the appeal in this case should have been filed on or before May 25, 2003. The appeal was dated by the applicant on May 23, 2003 and received on May 29, 2003.

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

It is noted that the record of proceeding contains a Warrant of Removal/Deportation, Form I-205, issued on September 13, 1999, based on an immigration judge's final order of removal. It is further noted that the record contains a Notice – Immigration Bond Breached, Form I-323, dated February 29, 2000.

ORDER: The appeal is rejected