U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAR 27 2006

[SRC 03 199 54516]

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

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

The applicant claims to be 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 denied the application because the applicant failed to establish his eligibility for late initial registration. The initial registration period for Hondurans was from January 5, 1999 to August 20, 1999. The record reveals that the applicant filed this initial TPS application with Citizenship and Immigration Services (CIS) on July 3, 2003.

On appeal, the applicant states that he has been living in the United States since 1998 and would like the opportunity to remain here legally. In support of the appeal, the applicant submits the CIS receipt notice reflecting that his initial attempt to file the appeal form was rejected because the document was submitted without a signature.

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 November 11, 2003, clearly advised the applicant that any appeal 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 December 15, 2003. The appeal, however, was not properly received at the Texas Service Center until January 5, 2004.

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

It is noted that the applicant failed to submit any evidence on appeal relating to his eligibility for late initial registration under the provisions of 8 C.F.R. § 244.2(f)(2) and (g).

It is also noted that the record contains only a birth certificate, with English translation. Under the provisions of 8 C.F.R. § 244.9(a)(1), this alone is insufficient to establish the nationality and identity of the applicant.

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.