



U.S. Citizenship
and Immigration
Services

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MI

[REDACTED]

FILE:

[REDACTED]

OFFICE: CALIFORNIA SERVICE CENTER

DATE:

JUN 25 2007

[WAC 06 130 70142]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

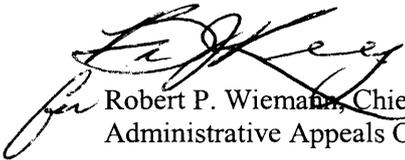
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 El Salvador 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 had failed to submit evidence to establish that he was eligible for late registration.

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 denial decision dated August 15, 2006, 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 September 18, 2006. The appeal was received at the California Service Center on September 22, 2006.

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

It is noted that the applicant, on appeal, has not overcome the director's findings. The applicant states that he is eligible for late registration because his wife has been granted TPS. A review of the record indicates that the applicant submitted with his initial TPS application a copy of a marriage certificate indicating that the applicant and [REDACTED] were married in El Salvador on February 8, 1984, and a letter from [REDACTED] requesting that her husband (the applicant) be included in her TPS as a dependent. While regulations may allow spouses of aliens who are TPS-eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements for eligibility for TPS. A review of [REDACTED] file (number [REDACTED]) reveals that [REDACTED] was granted TPS on January 27, 2004. [REDACTED] however, indicated on her initial TPS application and on her re-registration applications (Forms I-821), and also on her Applications for Employment Authorization (Forms I-765) that she is "single." She also indicated "NONE" on Part 3 [Information about your spouse and children] of the Forms I-821. While the record shows a marriage on February 8, 1984, it is not clear why [REDACTED] claimed that she is not married. Therefore, the authenticity of the marriage certificate furnished by the applicant is questioned. If in fact the applicant is married to [REDACTED] as claimed, the evidence of record failed to establish that the marriage between the applicant and [REDACTED] still exists.

It is further noted that in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States, the applicant submitted copies of earnings statements from 4 different alleged employers. The earnings statements appear to have been altered as the original employee name on each of these documents seem to have been covered-over and the applicant's name has been inserted in their place.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth

lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the application will also be denied for this reason

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.