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

M

[Redacted]

FILE: [Redacted]
[SRC 01 227 63291]

Office: TEXAS SERVICE CENTER Date: JUN 10 2005

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:

[Redacted]

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 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 (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 that she 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 her, 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 1, 2001, 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 4, 2001. The appeal, however, was not properly received at the Texas Service Center until December 17, 2001.

It is noted that on the appeal, the applicant states that she disagrees with the denial of her TPS application, and refers to documents she previously submitted to the Texas Service Center. The applicant asks for review of "all of the attached record of proceedings of [her] case." However, other than copies of the Notice of Decision to Deny and the Request for Additional Evidence, there are no documents attached to the appeal.

Nevertheless, the record contains documentation indicating that the applicant has not established her eligibility for late initial registration under the provisions of 8 C.F.R. § 244.2(f)(2) and (g). The record reflects that the applicant was placed in deportation proceedings, (along with her husband), following her apprehension by the United States Border Patrol on or about March 7, 1997, at or near Brownsville, Texas, while attempting entry into the United States. On March 31, 1998, in joint proceedings, the Immigration Judge, Harlingen, Texas, granted voluntary departure to the applicant and her husband, to be effected no later than July 29, 1998. The applicant appealed the decision of the Immigration Judge to the Board of Immigration Appeals (BIA). On June 29, 1999, the BIA administratively closed the applicant's case in order to permit her to file for TPS benefits. Therefore, during a portion of the initial registration period for Hondurans that ran from January 5, 1999, through August 20, 1999, the applicant fell under the provisions of 8 C.F.R. § 244.2(f)(2)(ii).

If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g). The record reveals that the applicant did not file her initial TPS application with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), until July 17, 2001, more than 60 days permitted under 8 C.F.R. § 244.2(g).

In addition, it is noted that the copy of the photo identification card submitted by the applicant is incomplete; it does not contain the applicant's date of birth and other information specified on the card. Moreover, the record does not contain the applicant's passport, national identity document from her country of origin bearing a

photograph and/or fingerprint, or her birth certificate. The applicant has, thereby, also failed to establish her identity and nationality.

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

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.