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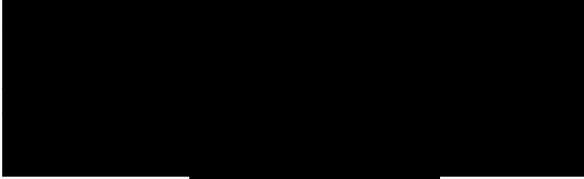
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

Date:

MAR 10 2005

[SRC 02 195 56090]

IN RE:

Applicant:



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

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 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 denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

The record reveals that the applicant filed his initial TPS application on June 5, 2002. On June 21, 2002, the applicant was requested to submit additional evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. In response, the applicant submitted an affidavit from his cousin attesting that the applicant resided at her home from September 1998 through November 1999.

The director determined that the applicant had failed to establish his eligibility for late registration and denied the application on July 22, 2002. In this decision, the director advised the applicant that any appeal must be filed within 30 days. The applicant, however, did not file a timely appeal to this denial decision.

Subsequent to the denial of his TPS application, on May 19, 2003, the applicant filed another TPS application marked as an application for re-registration, along with Form I-765, Application for Employment Authorization.

On November 21, 2003, the director issued a Notice of Decision, denying the applicant's request for employment authorization because the applicant's TPS application had previously been denied. The director informed the applicant that there is no appeal to the decision denying employment authorization.

On December 29, 2003, the applicant filed an appeal "from the decision of the director dated 11/21/2003." On appeal, the applicant states that he has evidence needed in order for TPS to be approved. In support of the appeal, the applicant submits: a shipping receipt dated in the year 2000; a Palm Beach Police Department Warning of illegible date; a copy of the May 2003, Form I-765; a copy of the November 21, 2003, Notice of Decision; a Florida Driver License issued on December 8, 2000; and, resubmits additional copies of the biographic page of his Honduran passport issued on March 27, 1998, by the Consulate General, Miami, Florida, and Gigante Express receipts dated in 1997 and 1998.

The applicant seeks appeal from the director's decision of November 21, 2003, denying employment authorization. As noted in the director's letter, there is no appeal to this decision, and therefore, the appeal must be rejected.

It is noted that the applicant did not seek appeal from the decision of July 22, 2002, denying his TPS application. The applicant's address has remained the same throughout the application process, and therefore, it may reasonably be assumed that the applicant was in receipt of the July 22, 2002, denial decision. In the event that the applicant seeks appeal of the denial of his TPS application, the following regulations are pertinent.

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 July 22, 2002, 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 August 26, 2002. The appeal, however, was not received at the Texas Service Center until December 29, 2003.

It is further noted that evidence submitted on appeal would not have overcome the ground for denial. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2) and (g).

Further, the applicant has also submitted insufficient evidence to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. The applicant has not submitted any evidence for the years 2001 and 2002. He has, therefore, also failed to establish that he has met the requirements under 8 C.F.R. § 244.2(b) and (c).

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.