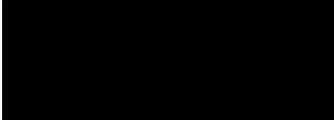




U.S. Citizenship
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Services

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invasion of personal privacy**



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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: SEP 02 2005
[SRC 03 187 54407]
[SRC 04 043 50909 Appeal]

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, on January 15, 2004. On February 9, 2004, the applicant filed a timely appeal that will be dismissed by the Administrative Appeals Office (AAO). The record also contains another notice of appeal dated November 28, 2003, that indicates it is in response to a denial dated "November 3, 2003." The matter is now before the 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.

"Affected Party" means the person or entity with legal standing in a proceeding. 8 C.F.R. § 103.3(a)(1)(iii)(B).

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee which has been accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v).

In this case, the appeal form indicates the applicant's name and address, and includes documentation relating to [REDACTED] bearing the notation that the information refers to a "son." The appeal form, however, contains a signature that does not match the applicant's signature as it appears on the remainder of the documentation in his record. Therefore, the appeal will be rejected as it does not appear that the appeal was filed by a party with legal standing in the proceedings.

It is noted that the notice of decision to deny that is dated "November 3, 2003" reflects a different A-number, and a different SRC receipt number, belonging to a person other than this applicant. It appears that the director erred in sending the "November 3, 2003," notice of decision to this applicant.

The evidence submitted on appeal would not have overcome the finding of the director. 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).

The applicant also has failed to submit sufficient credible evidence to establish his qualifying continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. Much of the submitted documentation appears to have been altered. 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).

Although the applicant certified, under penalty of perjury, on the Form I-821, Application for Temporary Protected Status, that he had never been under immigration proceedings, the record includes documentation pertaining to the applicant's expedited removal proceedings. The record reflects that the applicant attempted to

enter the United States on October 2, 1999, using a backdated entry stamp. According to statements taken at that time, the applicant indicated, and his documents confirmed, that he had previously entered the United States on April 18, 1999, as a B-1 visitor for business, with authorization to remain until May 17, 1999. The applicant admitted that he remained in the United States until September 5, 1999, returned to Honduras, and then attempted to re-enter the United States using the altered document. The applicant was found to be inadmissible to the United States under sections 212(a)(6)(C)(i) and (7)(A)(i)(I) of the Act, as amended, and was subsequently removed to Honduras on October 3, 1999.

These dates of entry further undermine the applicant's claim of continuous residence and continuous physical presence in the United States for the requisite periods.

Because this appeal does not appear to have been filed by either the applicant or another party with legal standing in the proceedings, the appeal is 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.