



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 104 75702]

OFFICE: CALIFORNIA SERVICE CENTER

Date: JUL 31 2006

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 (AAO) on appeal. The appeal will be rejected.

The applicant is a 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 record reveals that on July 2, 2003, the applicant filed an earlier TPS application under Citizenship and Immigration (CIS) receipt number SRC 03 195 54612. The Texas Service Center Director denied that application on November 5, 2003, because the applicant failed to establish her eligibility for late initial registration. On November 19, 2003, the applicant filed an appeal from the denial decision. That appeal was dismissed on March 15, 2005, after the Director (now Chief) of the AAO determined that the applicant had failed to establish her: eligibility for late initial registration; continuous residence in the United States since December 30, 1998; and, continuous physical presence in the United States since January 5, 1999. On April 15, 2005, the applicant filed a motion to reopen the decision of the AAO Director. That motion is being dismissed under separate cover.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 12, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application on May 26, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

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 May 26, 2005, 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 June 28, 2005. The appeal, however, was not properly received at the Service Center until July 7, 2005.

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.