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FILE:



OFFICE: TEXAS SERVICE CENTER

Date: JUL 31 2006

[SRC 02 140 54304]

[SRC 03 244 51291, *Appeal*]

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.

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center (TSC). On July 1, 2003, the applicant filed an untimely appeal from the denial decision, that was rejected by the Director (now Chief), Administrative Appeals Office (AAO) on November 17, 2004. Prior to the decision of the AAO Director, the applicant filed another appeal on September 2, 2003. The matter is now before the 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 TSC Director denied the application because the applicant failed to establish he was eligible for late registration.

A subsequent appeal from the director's decision was rejected on November 17, 2004, after the Director of the AAO concluded that the appeal was untimely filed and that the applicant had failed to establish that he was eligible for TPS.

Prior to the issuance of the AAO Director's decision on the initial appeal, the applicant filed the instant appeal, stating that he would not like to lose his employment authorization. He does not submit any additional evidence in support of the appeal.

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 17, 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 19, 2002. This appeal, however, was not received at the Texas Service Center until September 2, 2003.

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

It is noted that the applicant indicated on this appeal form that he was appealing the decision dated "August 14, 2003." The record reflects that the decision dated August 14, 2003, referred to the denial of his request for extension of employment authorization. Denial of employment authorization in that instance may not be appealed. Therefore, the appeal must also be rejected 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. The previous decision of the AAO dated November 17, 2004, is affirmed.