



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 28 2006

[WAC 05 062 74465]

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 California Service Center. 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 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 record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, after the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 02 189 54937. The director denied that application on December 30, 2003, after determining that the applicant had failed to establish he was eligible for late initial registration. The applicant did not appeal the director's decision.

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has 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 23, 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 August 25, 2005. The instructions to the Form I-290B, Notice of Appeal, very clearly dictate that the appeal is not to be sent directly to the AAO; but, rather, to the "office which made the unfavorable decision." The applicant, nevertheless, sent his appeal to the AAO. The appeal is not considered properly received until it is received by the Service Center that rendered the unfavorable decision. The appeal was properly received at the California Service Center on August 26, 2005.

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

It is noted that the record contains the applicant's Federal Bureau of Investigation Identification Record showing that he was arrested under the name for the following offenses:

1. Arrested on December 2, 2000, by the Florida Highway Patrol – Miami, Florida, for "Driving Under the Influence" and "No Valid Drivers License."
2. Arrested on March 16, 2003, by the Miami Police Department in Florida for "Driving Under the Influence," "No Valid Drivers License," and "Driving While License Suspended With Knowledge."

The final court dispositions of these arrests are not included in the record of proceeding.

It is also noted that the record contains an executed Form I-205, Warrant of Deportation, for the applicant issued by the District Director in El Paso, Texas showing that he was deported from the United States on June 28, 1990 at Houston, Texas.



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An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act.

ORDER: The appeal is rejected.