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U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
[SRC 03 191 55065]

Office: Texas Service Center Date:

MAY 05 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.

Robert P. Wiemann for
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 after determining that the applicant had abandoned her application by failing to respond to a request for evidence.

The record reveals that the applicant filed her application on June 25, 2003. On September 9, 2003, the applicant was requested to submit additional evidence establishing her eligibility for late registration. The applicant also was requested to submit a copy of her driver's license.

The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned her application and denied the application on November 3, 2003.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned, and accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

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 applicant submitted an appeal on December 16, 2003. The director correctly treated this as a motion and dismissed the motion because it did not fit the criteria for a properly filed motion. In addition, the motion had been filed after the time period for filing an appeal and/or a motion had elapsed.

The applicant filed a subsequent appeal on January 28, 2004. Since the previous motion had been dismissed by the Service Center director, this appeal must be rejected.

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. The applicant has failed to meet this burden.

ORDER: The appeal is rejected.