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U.S. Citizenship
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Services

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FILE:



Office: California Service Center

Date: OCT 24 2006

[WAC 05 126 80023]

IN RE:

Applicant:



PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

ON BEHALF OF PETITIONER: 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.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

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 on appeal. The appeal will be rejected.

The applicant is stated to be a citizen of Honduras who is applying for 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 late TPS application on February 3, 2005 under CIS receipt number WAC 05 126 80023. The director denied that application on May 1, 2006, because the applicant failed to establish that he was eligible for late registration.

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 is dated May 1, 2004. 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 5, 2006. It is noted that although in the director's decision the applicant was instructed to submit the appeal to the director's office, and not directly to the AAO, the applicant initially mailed the appeal to the Administrative Appeals Office. Upon receipt, the AAO returned the appeal and accompanying documents and fee, to the applicant, on May 24, 2006, with instructions to mail the appeal to the California Service Center. The appeal was received at the California Service Center on June 14, 2006.

It is also noted that the record reveals that the applicant was apprehended at the time of his attempted entry into the United States, on December 29, 2002, placed in removal proceedings, and released on Recognizance on January 2003. A Removal Order was entered against the applicant, in absentia, by the Immigration Judge, on May 2, 2003.

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.

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

ORDER: The appeal is rejected.