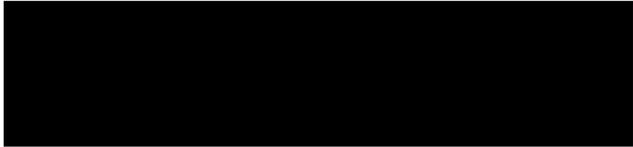




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAR 27 2007

[WAC 05 097 75926]

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, Director
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 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 an initial TPS application on June 30, 2003, under Citizenship and Immigration Services (CIS) receipt number EAC 03 214 54003. The Director, Vermont Service Center (VSC), denied that application on November 3, 2003, because the applicant had failed to establish that she was eligible for late initial registration. On December 24, 2003, the applicant filed an appeal from the denial decision. Because the appeal was untimely filed the director rejected the appeal, but accepted the appeal as a motion to reopen. The VSC director determined that after a complete review of the record of proceeding, including the motion, the applicant had failed to overcome the grounds of denial and dismissed the motion on May 24, 2004. The applicant appealed the director's decision to dismiss the motion on June 18, 2004. The AAO reviewed the record of proceeding and noted that although the applicant had a Form I-485, Application for Adjustment of Status to Permanent Resident, that was pending during the initial registration period, that application was denied on June 22, 2000, and the applicant had failed to file a late initial registration within a 60-day period after the denial of the I-485, as required by 8 C.F.R. § 244.2(g). The AAO, therefore, dismissed the appeal on November 29, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 5, 2005, and indicated that she was re-registering for TPS. The Director, California Service Center (CSC), denied the re-registration application on March 23, 2006, 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 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).

8 C.F.R. § 103.2(a)(7) states, in part:

An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and....shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted. An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions, and ones in which the check or other financial instrument used to pay the filing fee is subsequently returned as non-payable will not retain a filing date.

The CSC director's denial decision, dated March 23, 2006, 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 April 25, 2006. The appeal (Form I-290B) was received at the CSC on April 10, 2006. However, the Form I-290B was returned to the applicant on April 12, 2006, because she had failed to sign the form. The properly executed Form I-290B was not received at the CSC until April 26, 2006.

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.