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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: MAY 29 2007
[WAC 04 063 50543]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The director denied the application on the ground that the applicant failed to establish that he is a national of a foreign state designated by the Attorney General and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The record reflects that the applicant is a native and citizen of Mexico, which does not have TPS designation.¹

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. *See* 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. *See* 8 C.F.R. § 103.5a(b). If the last day of the period for taking an action falls on a weekend or a holiday, the deadline is extended until the next working day. *See* 8 C.F.R. § 1.1(h).

The director's decision of denial is dated November 24, 2003. As provided in 8 C.F.R. § 103.3(a)(2)(i), an appeal must be filed within thirty days after service of the decision. Together with the three days for mailing, the appeal in this case should have been filed on or before Wednesday, December 29, 2003. As the receipt stamp on the Form I-290B indicates, however, the applicant's appeal was received at the California Service Center on December 31, 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.

¹ On appeal the applicant asserts that he is eligible for TPS because his father has been granted TPS. While Citizenship and Immigration Services (CIS) records confirm that the applicant's father, [REDACTED] Alien # [REDACTED], has been granted TPS as a national of Honduras – a country designated for TPS – the record is conflicting as to whether the applicant's father is actually a Honduran national. The applicant's birth certificate, registered in Zapopan, Jalisco, Mexico, on August 5, 1987, identifies his father's nationality, as well as his mother's, as Mexican. A "License and Certificate of Confidential Marriage" issued to the applicant's parents by the County of Los Angeles, California, on January 6, 2000, however, identifies the father's country of birth as Honduras. The applicant's mother, [REDACTED] Alien # [REDACTED] also has a TPS application pending. As a Mexican national, however, she would be ineligible for TPS even if her "confidential marriage" to a "Honduran" in 2000 were given credence, since it occurred after the close of the initial registration period for TPS applicants from Honduras on August 20, 1999.