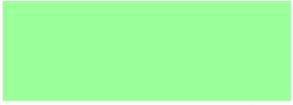




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **MAR 28 2013** Office: CALIFORNIA SERVICE CENTER

FILE:

IN RE: Applicant:

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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the California Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg  
Acting 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 claims to be a citizen of Haiti 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 because the applicant failed to establish he had: 1) continuously resided in the United States since January 12, 2011; and 2) been continuously physically present in the United States since July 23, 2011.

The regulation at 8 C.F.R. § 103.2(a) states, in pertinent part:

(2) *Signature.* An applicant must sign his or her benefit request. However a parent or legal guardian may sign for a person who is less than 14 years old.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

*Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

*Reputable Individuals* are defined as any reputable individual of good moral character, provided that his or her appearance is permitted by the DHS official before whom he or she seeks to appear, provided that such permission will not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself or herself out to the public as qualified to do so. 8 C.F.R. § 292.1(3)(iv).

Part 1 (Information about the individual/business/organization filing the appeal) of the Form I-290B, Notice of Appeal or Motion, indicates that it is being filed by the applicant, who was 16 years of age at the time. The Form I-290B, however, is not signed by the applicant. The Form I-290B was signed by [REDACTED] who claims to be the applicant's aunt. The record of proceeding does not contain any evidence that [REDACTED] appearance was permitted by the DHS official as required under 8 C.F.R. § 292.1(3)(iv).

Therefore, [REDACTED] has no standing in this proceeding. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the Form I-290B was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

(b)(6)

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Assuming, *arguendo*, [REDACTED] had met the requirement under 8 C.F.R. § 292.1(3)(iv), the appeal would still be rejected as it was untimely filed. The director issued the Notice of Decision on April 10, 2012, and the appeal was received on September 20, 2012, 163 days after the decision was issued.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must submit the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the appeal was not properly filed.

**ORDER:** The appeal is rejected.