



U.S. Citizenship  
and Immigration  
Services

(b)(6)

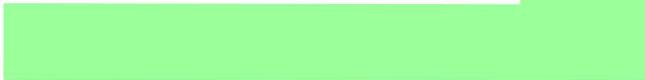


DATE: **NOV 18 2013**

Office: CALIFORNIA SERVICE CENTER



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 (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

for Ron Rosenberg  
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 she was eligible for late registration.

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 record indicates that the director issued a Notice of Decision on January 11, 2013, and it was mailed to the applicant at her address of record. The applicant sent a copy of the decision to the AAO, which was received on February 13, 2013.<sup>1</sup> The AAO returned the decision to the applicant on March 1, 2013. The decision along with the required Form I-290B (dated March 11, 2013) was received at the Vermont Service Center on March 15, 2013, 63 days after the decision was issued. Accordingly, the appeal was untimely filed.

Neither the Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the Director, California Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director determined that the late appeal did not meet the requirements of a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

Finally, it is noted that on June 3, 2013, the applicant filed a second Form I-290B, Notice of Appeal or Motion, and indicated at Part 2 that she was appealing the denial decision from the current application. A decision from the second Form I-290B will be addressed under separate cover.

**ORDER:** The appeal is rejected.

---

<sup>1</sup> Although the required Form I-290B, Notice of Appeal or Motion, did not accompany the decision the instructions on the form and the director's decision provide clear instructions where the appeal is to be filed.