



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: OCT 25 2013

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

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

Along with his TPS application, the applicant submitted copies of the biographical pages of his Greek passports issued on October 24, 2006 and April 24, 2012, which list his nationality as Hellenic and place of birth as Damascus, Syria. The applicant also submitted the biographical pages of his B-2 visa issued on November 1, 2009 and his F-1 visa issued on August 2, 2010, which list his nationality as Greek.

The director denied the application because the applicant failed to establish that he is a national of a foreign state designated by the Secretary, Department of Homeland Security, and eligible for the granting of Temporary Protected Status under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

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 the Notice of Decision on March 5, 2013, and it was mailed to the applicant at his address of record. The Form I-290B, Notice of Appeal or Motion, along with Form I-912, Request for Fee Waiver, was received on April 5, 2013; however, the Form I-290B was rejected as the applicant did not submit the required documentation to support his fee waiver request. The forms were returned to the applicant with instructions to provide the appropriate fee or the required documentation to support a fee waiver request. The Forms I-290B and I-912 and supporting documents were received at the Phoenix Lockbox on April 19, 2013, 45 days after the decision was issued.

The Form I-912 provides clear instructions what documents are to be submitted to support a fee waiver request. In the instant case, the applicant did not submit a completed Form I-912 on April 5, 2013. Neither the Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. Accordingly, the appeal was untimely filed.

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, Vermont 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.

ORDER: The appeal is rejected.