



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **SEP 06 2013**

Office: VERMONT 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,

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.

The applicant claims to be a 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 director denied the application because the applicant failed to establish: 1) that she was eligible for late registration; 2) continuous residence since December 30, 1998 in the United States; and 3) continuous physical presence since January 5, 1999 in the United States.

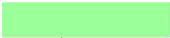
In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must submit the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The 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 August 27, 2012, and it was mailed to the applicant at her address of record. The Form I-290B, Notice of Appeal or Motion, is very clear in indicating that the appeal is not to be sent directly to the AAO. The applicant, nevertheless, sent the Form I-290B along with Form I-912, Request for Fee Waiver, to the AAO, which was received on October 3, 2012. On October 5, 2012, the Forms I-290B and I-912 were returned to the applicant with instructions to where they must be filed. Said forms, however, were sent again to the AAO, which were received on December 17, 2012. The AAO returned the forms to the applicant on December 18, 2012 with instructions to where they must be filed.

The forms were received at the Chicago Lockbox on January 10, 2013; however, they were rejected as the applicant did not submit the required documentation to support her fee waiver request. The Forms I-290B and I-912 and supporting documents were received at the Phoenix Lockbox on February 13, 2013, 170 days after the decision was issued. Accordingly, the appeal was untimely filed.

Assuming, *arguendo*, a properly completed appeal was received at the lockbox on October 3, 2012, the appeal would have still been untimely filed as it was received 37 days after the decision was issued

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, 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.



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*NON-PRECEDENT DECISION*

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

**ORDER:** The appeal is rejected.