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U.S. Citizenship
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Services

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[REDACTED]

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 28 2007**

[WAC 05 061 72648]

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, 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 is a native and 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC [REDACTED] after the initial registration period had closed. The Director, Texas Service Center, denied that application on August 26, 2003, after determining that the applicant had failed to establish she was eligible for late initial registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821 on November 30, 2004, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded. 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. 8 C.F.R. § 103.5a(b).

The director's decision of denial, dated July 23, 2005, clearly advised the applicant that any appeal must be properly filed within thirty days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i). Coupled with three days for mailing, the appeal should have been filed on or before August 25, 2005. The instructions to the Form I-290B, Notice of Appeal, very clearly dictate that the appeal is not to be sent directly to the AAO; but, rather, to the "office which made the unfavorable decision." The applicant, nevertheless, sent her appeal to the AAO. The appeal is not considered properly received until it is received by the Service Center that rendered the unfavorable decision. The appeal was properly received at the California Service Center on August 26, 2005.

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.

In removal proceedings held on March 4, 1997, an Immigration Judge in Houston, Texas, ordered the applicant deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the District Director of the Houston, Texas, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on April 11, 1997.

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.

ORDER: The appeal is rejected.