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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FEB 28 2003

File:



Office: Texas Service Center

Date:

IN RE: Applicant:



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

**PUBLIC COPY**

IN BEHALF OF APPLICANT: Self-represented

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. §103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. §103.7.

*for*  
*Kathie McEustace*  
Robert P. Wiemann, Director  
Administrative Appeals Office

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

The applicant is a native and citizen of Honduras who indicated on her application that she entered the United States in December 1998, without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254, because the applicant failed to establish she was eligible for late registration.

8 C.F.R. §103.3(a)(2)(v)(B) states:

*Untimely appeal--(1) Rejection without refund of filing fee.* An appeal which 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.

*Untimely appeal--(2) Untimely appeal treated as motion.* If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

The applicant, on appeal, indicates that she is filing a separate written brief or statement. The applicant states she is enclosing copies of documents showing that she has been living in the United States since 1998. The applicant resubmits evidence previously provided to the Service. According to the applicant, she did not submit an application initially because she was economically unable to do so and because she feared deportation. The applicant does not specify the reasons for the appeal. Thus, the applicant has not met the requirements of a motion.

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 decision, dated July 22, 2002, clearly advised the applicant that any appeal must be filed within thirty days. Coupled with three days for mailing the appeal, in this case, should have been filed on or before August 25, 2002. The appeal was dated by the applicant on November 8, 2002, and received by the Service on November 13, 2002.

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



**ORDER:** The appeal is rejected.