

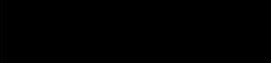


U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**  
identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



*[Handwritten signature]*

FILE: 

Office: TEXAS SERVICE CENTER Date:

**JUN 7 2004**

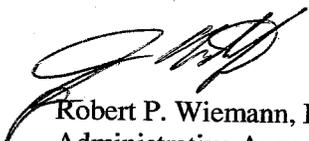
IN RE: Applicant: 

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 office that originally decided your case. Any further inquiry must be made to that office.

  
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 El Salvador 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 determined that the applicant failed to submit the court disposition of his arrest as requested on August 23, 2002. The director, therefore, denied the application.

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).

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. 8 C.F.R. § 103.3(a)(2)(v)(B)(2).

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy and must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

8 C.F.R. § 103.3(a)(2) states, in pertinent part, that the affected party shall file an appeal, with fee, including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision.

The applicant, on appeal, states that he did not respond to the director's request on time because he did not have the documentation from the court. He submits an incomplete court document that shows he was indicted on December 27, 2000, for (1) under the influence of alcohol/drug in vehicle, 23152(a) VC, a misdemeanor, (2) .08% or more weight in alcohol while driving a vehicle, 23152(b) VC, a misdemeanor, and (3) unlicensed driver, 12500(a) VC, a misdemeanor. The applicant, in this case, 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 October 23, 2002, clearly advised the applicant that any appeal, along with the required fee and any supporting brief, must be filed within 30 days of the service of the decision. Coupled with 3 days for mailing, the appeal, in this case, should have been filed on or before November 26, 2002. The Form I-290B, Notice of Appeal, is very clear in indicating 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 his 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 Texas Service Center on December 3, 2002. Based on the applicant's failure to file a timely appeal, the appeal will be rejected.

**ORDER:** The appeal is rejected.