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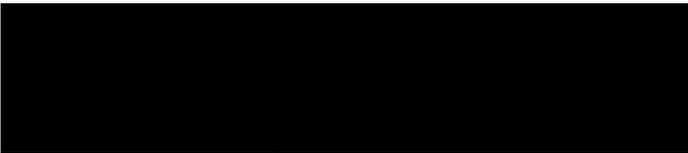
U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3042  
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**U.S. Citizenship  
and Immigration  
Services**

**MI**



FILE:



Office: VERMONT SERVICE CENTER

Date: NOV 04 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.

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

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont 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 was ineligible for TPS because he had been convicted of two misdemeanors committed in the United States. 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 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 October 22, 2002, 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, in this case, should have been filed on or before November 24, 2002. The appeal was received at the Vermont Service Center on December 16, 2002.

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

It is noted in the record that the applicant was convicted: (1) on January 20, 1994 (arrest date June 13, 1993), of driving while ability impaired; and (2) on February 4, 1999 (arrest date April 12, 1998), of driving while intoxicated. While the applicant, on appeal, states that the charges for June 13, 1993 were dismissed, the court record does not reflect this claim. It is further noted that the Federal Bureau of Investigation report shows that on August 31, 1996, the applicant, under the name of Santos I. Argueta, was arrested and charged with driving while intoxicated. The court's final disposition of this arrest is not contained in the record.

**ORDER:** The appeal is rejected.