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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship and Immigration Services

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FILE: [REDACTED]  
[SRC 03 245 55040]

Office: TEXAS SERVICE CENTER Date: APR 20 2005

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 (AAO) on appeal. The appeal will be rejected.

The applicant claims to be 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 denied the application because the applicant failed to establish that he was eligible for late registration.

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 December 23, 2003, 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 January 26, 2004. The appeal, however, was not properly received at the Texas Service Center until February 4, 2004.

It is noted that the evidence submitted on appeal would not have overcome the finding of the director. The applicant has not submitted any evidence that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

It is also noted that the record includes a fingerprint results report from the Federal Bureau of Investigation (FBI), indicating that on March 9, 2002, the applicant was arrested by the West Palm Beach Police Department [Florida], on a charge of "Hit and Run-Leave Scene of Crash Involve Damage to Prop," a 2nd Degree Misdemeanor. In support of the appeal, the applicant also submitted a transcript from the State of Florida, Department of Highway Safety and Motor Vehicles, Division of Driver Licenses Transcript of Driver Record, dated January 6, 2004, that contains notations of various correspondence and convictions for various traffic infractions and offenses dated between 1999 and 2002. The record does not include arrest records or final court dispositions for any of the charges against the applicant. These offenses must be addressed in any future proceedings.

Further, it is noted that the FBI report indicates that the applicant gave his nationality as Guatemalan, at the time of his arrest. The record contains only a copy of a birth certificate with translation; it does not contain an original birth certificate, or any national identity document from the applicant's country of origin bearing a photograph and/or fingerprint. It must, therefore, also be determined that the applicant has failed to conclusively establish his nationality.

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

  
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As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The appeal is rejected.