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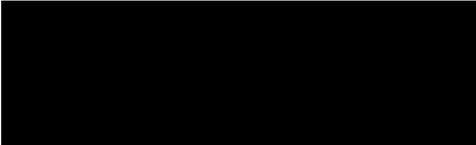
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE:



[SRC 03 238 55364]

Office: TEXAS SERVICE CENTER

Date: APR 28 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

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 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 denied the application because the applicant failed to establish that he is eligible for late initial 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 3, 2004.

It is noted that the evidence submitted on appeal would not have overcome the finding of the director. On appeal, the applicant states that he was unaware of the TPS program during the initial registration period in 2001. During the re-registration period in 2002, the applicant said that a preparer in an unspecified office told him that he could not apply, but that, in 2003, a worker at a different office in Nashville told him that he could apply for late registration. He asks that his case be reconsidered because he is the only support of his family in El Salvador. The applicant does not submit any additional evidence in support of the appeal. 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).

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

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.