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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services



M

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: FEB 03 2005

[WAC 03 030 50775]

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, California 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 Federal Bureau of Investigation fingerprint results report indicates that the applicant was arrested on February 21, 1997, for giving false information to police officers; on August 23, 1999, for assault with firearm on person; on April 21, 2001, for threatening to commit a crime, intent to terrorize; on July 1, 2002, for possession of marijuana for sale; and on July 26, 2002, for possession/purchase of coke base for sale, possession of controlled substance paraphernalia, and possession of marijuana 28.5 grams). The applicant was requested on September 18, 2003, to submit the final court dispositions of these arrests. Because the applicant failed to submit all the requested court documents, the director 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 January 23, 2004, 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 February 25, 2004. The appeal was received at the California Service Center on March 5, 2004.

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

It is noted for the record that the Form I-821, Application for Temporary Protected Status, was filed on September 17, 2002, after the initial registration period for El Salvadorans had closed on September 9, 2002.

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.