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U.S. Citizenship
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FILE:



[WAC 01 186 53670]

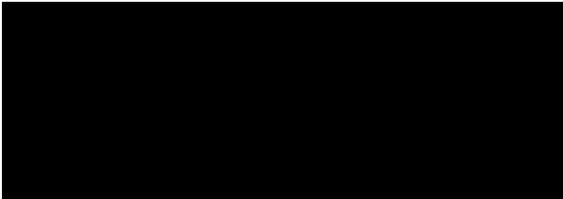
OFFICE: CALIFORNIA SERVICE CENTER

DATE:

JUN 29 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, California Service Center, and is now before the Administrative Appeals Office 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 after determining that the applicant was ineligible for TPS, pursuant to section 244(c)(2)(B)(i) of the Act, because he was convicted of two misdemeanor offenses in the County of San Mateo, California; namely: (1) on January 7, 1999, for possession of a false government identification card, 529.5(c) PC; and (2) on January 13, 2000, for petty theft, 484 PC.

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 March 18, 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 April 20, 2004. The appeal was received at the California Service Center on April 22, 2004.

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

It is noted that the Federal Bureau of Identification fingerprint results report contains additional arrests relating to the applicant. However, the applicant failed to submit the final court dispositions of these arrests, nor does the record contain evidence suggesting that these arrests relate to the offenses listed in Nos. 1 and 2 above:

(3) Arrested on March 29, 1999, in San Bruno, California, for petty theft (name used [REDACTED] Amaya).

(4) Arrested on February 14, 2000, in Redwood City, California, for theft (name used [REDACTED]).

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.