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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

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FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 25 2005

[WAC 01 220 50740]

IN RE:

Applicant:

[REDACTED]

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 "Robert P. 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 record reveals the following misdemeanor convictions:

- (1) On June 13, 1994, the applicant was convicted in the Municipal Court of Los Angeles, Van Nuys Judicial District, County of Los Angeles, State of California, of reckless driving with no injuries in violation of section 23103 VC, a misdemeanor. (Date of Arrest: April 2, 1994; Docket Number [REDACTED])
- (2) On December 5, 1994, the applicant was convicted in the Municipal Court of Los Angeles, Van Nuys Judicial District, County of Los Angeles, State of California, of battery in violation of section 242 PC, a misdemeanor. (Date of Arrest: December 3, 1994; Docket Number [REDACTED])
- (3) On May 29, 2001, the applicant was convicted in the Municipal Court of LASC Chatsworth Courthouse Judicial District, County of Los Angeles, State of California, of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) VC, a misdemeanor. (Date of Arrest: May 26, 2001; Docket Number: [REDACTED])

The director denied the application because he found the applicant had been convicted of two or more misdemeanors.

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 3, 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 5, 2004. The appeal was received at the California Service Center on April 16, 2004.

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

It is noted that the record contains an outstanding Warrant of Deportation issued by the District Director, Los Angeles, on April 20, 1996.

It is further noted that the applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative, filed on the applicant's behalf by his mother, [REDACTED]

**ORDER:** The appeal is rejected.