

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



M

FILE: [REDACTED]
[WAC 01 295 54445]

Office: CALIFORNIA SERVICE CENTER

Date:

MAR 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, 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 reflects the following arrests:

1. On September 8, 2001, the applicant was arrested in Burbank, California, and charged with one count of disorderly conduct under the influence of drugs or alcohol.
2. On August 17, 2002, the applicant was arrested in Burbank, California, and charged with one count of driving under the influence of alcohol in violation of section 23152(a) VC, a misdemeanor.

On November 13, 2003, the applicant was requested to submit additional evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant was also requested to submit the final court disposition of all arrests since his arrival in the United States.

In response, the applicant submitted additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. He also provided a court document indicating that he was convicted in the Superior Court of California, County of Alameda, of driving under the influence of alcohol in violation of section 23152(a) VC, a misdemeanor, on January 27, 2003. (Docket Number [REDACTED]) However, the applicant failed to provide the final court disposition of No. (1) above.

The director denied the application because he found that the applicant had failed to submit requested court documentation relating to his criminal record.

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 February 12, 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 March 16, 2004. The applicant did not properly file the appeal with the California Service Center until March 30, 2004.

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

ORDER: The appeal is rejected.