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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

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MAY 02 2005

[redacted]

FILE:

[redacted]

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 03 031 55331]

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.

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 offenses:

1. On November 10, 1983, the applicant was arrested in Los Angeles, California, and charged with one count of theft of personal property in violation of section 484 PC, a misdemeanor. On November 18, 1983, applicant was convicted of this charge in the Municipal Court of Van Nuys, County of Los Angeles, State of California. (Agency Case Number [REDACTED] Docket Number [REDACTED])
2. On February 3, 1985, the applicant was arrested in Compton, California, and charged with grand theft auto. The record does not contain the final court disposition of this charge. (Agency Case Number [REDACTED])
3. On April 20, 1985, the applicant was arrested in Los Angeles, California, and charged with one count of disorderly conduct, prostitution, in violation of section 647(b) PC, a misdemeanor. On June 17, 1985, this charge was dismissed in the furtherance of justice and the applicant was convicted in the Municipal Court of Van Nuys, County of Los Angeles, State of California, of the amended charge of trespassing and injuring private property in violation of section 602(j) PC, a misdemeanor. (Case Number [REDACTED])

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

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 25, 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 27, 2004. The appeal was received at the California Service Center on April 28, 2004.

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

**ORDER:** The appeal is rejected.