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



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAY 05 2005

[WAC 03 041 52353]

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 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 because the applicant had failed to submit the final court disposition of all his arrests.

On appeal, the applicant submits the requested court disposition.

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 September 18, 2003, 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 October 21, 2003. The appeal was received at the California Service Center on October 23, 2003.

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

It is noted that the applicant was convicted of at least seven misdemeanors, listed below. These convictions render the applicant ineligible for TPS pursuant to Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a):

- (1) On December 7, 1992, in Los Angeles, California, Case No. [REDACTED] the applicant, under the name of [REDACTED] was convicted of theft, 484(a) PC, a misdemeanor.
- (2) On November 9, 1997, in the District Court of the Second Circuit, Wailuku Division, Hawaii, the applicant was convicted of: (1) driving under the influence of intoxicating liquor; (2) no motor vehicle driver's license; and (3) inattention to driving.
- (3) On September 12, 1998, in the District Court of the Second Circuit, Lahaina Division, Hawaii, the applicant was convicted of driving under the influence of intoxicating liquor.
- (4) On November 26, 1998, in the District Court of the Second Circuit, Lahaina Division, Hawaii, the applicant was convicted of: (1) driving without a license; and (2) fraudulent use of vehicle plates, emblem, decal.
- (5) On April 19, 2000, in the District Court of the Second Circuit, Lahaina Division, Hawaii, the applicant was convicted of: (1) driving while license suspended or revoked; and (2) no no-fault insurance.
- (6) On June 5, 2000, in the District Court of the Second Circuit, Lahaina Division, Hawaii, the applicant was convicted of criminal contempt of court.

It is also noted that the applicant filed his TPS application on October 4, 2002, after the initial registration period for El Salvadorans (from March 9, 2001 to September 9, 2002) had closed. There is no evidence in the record that the applicant fell within the provisions described in 8 C.F.R. § 244.2(f)(2).

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.