

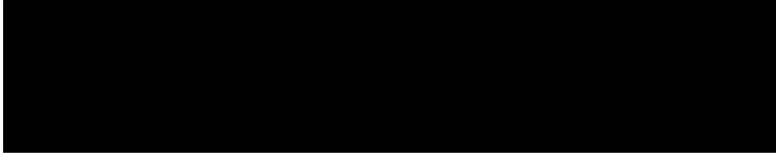


U.S. Citizenship
and Immigration
Services

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FILE:  OFFICE: CALIFORNIA SERVICE CENTER DATE:
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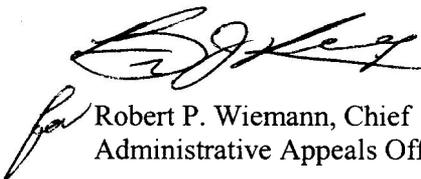
IN RE: Applicant: 

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.


for Robert P. Wiemann, Chief
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 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 that the applicant filed a TPS application during the initial registration period on May 23, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 01 243 58308. The director denied that application on July 28, 2003, because the applicant was convicted of two misdemeanors. The applicant appealed the director's decision on October 31, 2003. The director rejected the appeal on April 22, 2004, because the appeal was untimely filed, and the appeal did not meet the requirements of a motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(2) and (3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 7, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on June 30, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has 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 June 30, 2005, 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 August 2, 2005. The appeal was received at the California Service Center on August 3, 2005.

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

The applicant, in this case, has not overcome the original findings of the director. The record reveals the following:

- (1) On January 19, 1993, in the Municipal Court of Central Orange County Judicial District, California, Case No. [REDACTED] (arrest date October 18, 1992), the applicant, in a 5-count indictment, was convicted of the misdemeanor offenses of Count 1, Driving Under the Influence, 23152(a) VC **with prior**; and Count 4, Driving with Suspended License, 14601.2(a) VC. The court disposition relating to the applicant's prior conviction of 23152(a) VC on August 26, 1991, is not contained in the record.
- (2) The Federal Bureau of Investigation fingerprint results report indicates that on November 27, 1992, in Santa Ana, California, the applicant was arrested for "OBSTRUCT, RESIST PO ARR BY CHP." The final court disposition of this arrest is not contained in the record.

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.