



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

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



M1

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **JUN 01 2006**  
[WAC 05 134 70904]

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, Chief  
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 applicant filed his initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 03 029 51571. The director denied that application on February 28, 2004, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant did not file an appeal or a motion to reopen the denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 11, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on April 25, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of his temporary treatment benefits.

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 April 25, 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 May 30, 2005. The applicant did not file the appeal with the California Service Center until June 6, 2005.

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

It is noted that the applicant's 2005 fingerprint results report revealed that the applicant was arrested in San Francisco, California, on September 14, 2003, and charged with one count of battery on a person and one count of conspiracy to commit a crime. These offenses must be addressed in any further proceeding before CIS.

**ORDER:** The appeal is rejected.