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U.S. Citizenship
and Immigration
Services

M1

FILE:

[WAC 05 098 70539]

Office: CALIFORNIA SERVICE CENTER

Date: **MAR 22 2006**

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 Honduras 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 SRC 99 132 52836. The applicant's fingerprint results report revealed the following offenses:

1. On July 16, 1996, the applicant was arrested in Miami, Florida, and charged with driving under the influence of alcohol in violation of FL 316.193 of the Florida statute.
2. On December 22, 1997, the applicant was arrested in Miami, Florida, and charged with petty larceny in violation of FL 812.014.

On January 30, 2001, the applicant was requested to provide the final court dispositions of the offenses detailed above. The applicant, in response, provided a document from the County Court In and For Dade County, Florida, indicating that prosecution was declined in connection with the offense detailed in No. 1 above. However, the applicant did not provide a court document reflecting the final court disposition of the offense detailed in No. 2 above.

The District Director, Miami, Florida, denied that application on December 11, 2001, because he found that the applicant had failed to submit requested court documentation relating to his criminal record. The applicant did not file an appeal from the denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 6, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on July 26, 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 July 26, 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 29, 2005. The applicant's appeal

was initially received at the California Service Center on August 26, 2005, but it was rejected and returned him because he did not enclose the proper fee. The applicant did not file the appeal with the California Service Center with the full and correct fee until September 14, 2005.

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

ORDER: The appeal is rejected.