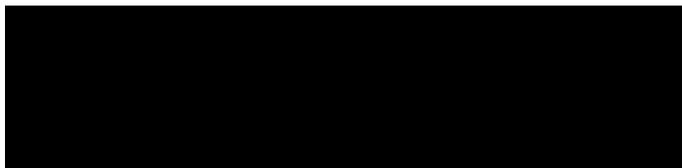




U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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



MH

NOV 20 2006

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:

[WAC 05 224 73476]

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 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 April 9, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 01 230 52809. The director denied that application on March 22, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on November 5, 2003. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on March 6, 2006, 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 March 6, 2006, 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 10, 2006. The appeal was received at the California Service Center on April 17, 2006.

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

It is noted that the applicant subsequently was fingerprinted on April 22, 2006, based on his re-registration application. The Federal Bureau of Investigation (FBI) fingerprint results report indicates that the applicant was arrested: (1) on April 20, 2000, in Los Angeles, California, for vehicle theft; and (2) on August 4, 2003, in Huntington Park, California, for driving under the influence of alcohol/drugs. The final court dispositions of these arrests are not included in the record of proceeding. CIS must address these arrests and/or convictions in any future decisions or proceedings.

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.