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U.S. Citizenship
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Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: **OCT 03 2006**

[consolidated therein]

[EAC 01 171 51534]

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, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center. The applicant filed a motion to reopen, which was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is stated 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.

On August 13, 2003, the director determined the initial application was abandoned because the applicant failed to provide requested evidence. On February 28, 2005, the applicant filed an appeal of the director's decision. The director considered the appeal a motion to reopen. On June 15, 2005, the director affirmed the previous decision because the applicant failed to establish continuous residence in the United States since February 13, 2001 and failed to provide the court disposition for her arrest.

On July 22, 2005, the applicant filed an appeal of the June 15, 2005 decision, requesting 30-days to file a brief and/or evidence. However, nothing was filed by the applicant within 30 days.

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 denying the motion to reopen is dated June 15, 2005. 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 July 18, 2005. The appeal was received at the Vermont Service Center on July 22, 2005.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act.

It is noted that the applicant was arrested and placed into deportation proceedings on September 17, 1996, under alien registration number [REDACTED]

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

ORDER: The appeal is rejected.