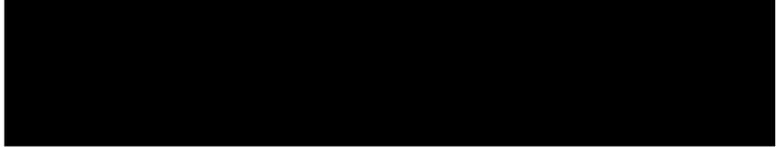




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



MI

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: APR 23 2007

[WAC 05 221 84252]

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 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 2, 2001, under receipt number EAC 01 191 55357. The Director, Vermont Service Center, denied that application on October 9, 2002, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on December 28, 2001. 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 9, 2005, and indicated that he was re-registering for TPS. The Director, California Service Center, denied the re-registration application on February 8, 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 February 8, 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 March 13, 2006. The appeal was received at the California Service Center on March 15, 2006.

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

The record reveals that the applicant subsequently was fingerprinted and the Federal Bureau of Investigation fingerprint results report dated April 21, 2006, indicates the following offenses:

- (1) On November 22, 1989, in Los Angeles, California, the applicant (name used: [REDACTED]) was arrested and charged with Count 1, "grant theft auto," PC 487; Count 2, "tamper with vehicle," VC 10852; and Count 3, "fight noise offensive words," PC 415.
- (2) On September 10, 1989, in Maywood, California, the applicant (name used: [REDACTED]) was arrested and charged with Count 1, "grand theft auto," PC 487; and Count 2, "receive etc. known stolen property," PC 496.
- (3) On December 6, 1990, in Los Angeles, California, the applicant (name used: [REDACTED]) was arrested for "wrt receive etc. known stol prop."
- (4) On January 23, 2006, in Bristol, Connecticut, the applicant (name used: [REDACTED]) was arrested for Count 1, "improper display;" Count 2, "operating a M/V WIT;" Count 3, "misuse of plate(s);" Count 4, "no insurance;" and Count 5, "operating an unregi."

An alien shall not be eligible for temporary protected status if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The actual final court dispositions of the arrests detailed in Nos. (1), (2), (3) and (4) above 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.