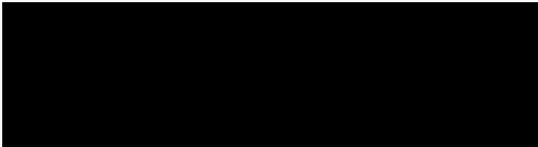




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy



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FILE:  OFFICE: CALIFORNIA SERVICE CENTER DATE: **APR 23 2007**
[WAC 05 225 91351]

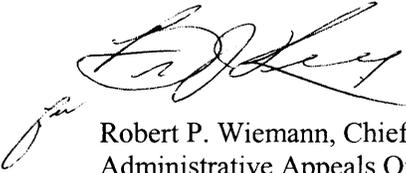
IN RE: Applicant: 

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 (AAO) on appeal. The appeal will be rejected.

The applicant claims 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.

The director determined that the evidence furnished by the applicant in response to the Notice of Intent to Deny dated March 31, 2006, was insufficient to establish that he was eligible for late initial registration. He noted that the applicant provided a copy of his marriage certificate, but failed to provide information regarding his spouse's eligibility as a TPS registrant. The director, therefore, denied the application on August 7, 2006.

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 August 7, 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 September 11, 2006. The director's decision and the Form I-290B, Notice of Appeal, are very clear in indicating that the appeal is not to be sent directly to the AAO; but, rather, to the office that made the unfavorable decision. The applicant, nevertheless, sent his appeal to the AAO. The appeal is not considered properly received until it is received by the Service Center that rendered the unfavorable decision. The appeal was properly received at the California Service Center on September 22, 2006.

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

It is noted that the applicant, on appeal, has not overcome the director's findings. Nor did the applicant submit photo identification to establish his nationality and identity as required by 8 C.F.R. § 244.9(a)(1).

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.