



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

MM



FILE:



OFFICE: Vermont Service Center

DATE: AUG 21 2007

[EAC 05 153 72869]

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, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The applicant is a national 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 denied the application on the grounds that the evidence submitted by the applicant – who filed his Form I-821, Application for Temporary Protected Status, on March 2, 2005, two and one-half years after the close of the initial registration period for El Salvadoran nationals on September 9, 2002 – (1) failed to establish that he was eligible for late TPS registration under any of the qualifying criteria enumerated at 8 C.F.R. § 244.2(f)(2); (2) failed to establish that he had been continuously physically present in the United States from March 9, 2001, until the date he filed his TPS application, in accordance with section 244(c)(1)(A)(i) of the Act; and (3) failed to establish that he had continuously resided in the United States since February 13, 2001, in accordance with 244(c)(1)(A)(ii) of the Act

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. *See* 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. *See* 8 C.F.R. § 103.5a(b). If the last day of the period for taking an action falls on a weekend or a holiday, the deadline is extended until the next working day. *See* 8 C.F.R. § 1.1(h).

The director's decision of denial is dated August 11, 2006. As provided in 8 C.F.R. § 103.3(a)(2)(i), an appeal must be filed within thirty days after service of the decision. Together with the three days for mailing, the appeal in this case should have been filed on or before Wednesday, September 13, 2006. As the receipt stamp on the Form I-290B indicates, however, the applicant's appeal was received at the Vermont Service Center on September 20, 2006.

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.

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.¹

ORDER: The appeal is rejected.

¹ Even if the appeal had been timely filed, the applicant did not submit any additional documentation to overcome the grounds of denial discussed in the director's decision. Thus, the AAO would have affirmed the director's decision in any event.