



U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 209 77750]

[as it relates to SRC 01 179 54839]

Office: CALIFORNIA SERVICE CENTER

Date: **AUG 27 2007**

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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal.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 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 12, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 179 54839. The Director, Texas Service Center, approved that application on September 18, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 27, 2005, and indicated that he was re-registering for TPS.

The record reveals the following offenses:

- (1) On March 11, 1996, the applicant pled guilty to, and was convicted of, "Driving While Intoxicated (misdemeanor)."
- (2) On November 5, 2003 the applicant pled guilty to, and was convicted of, "Driving While Intoxicated- 2nd Offense (misdemeanor)" and "Failure to Stop and Give Information (misdemeanor)."

The director withdrew temporary protected status because the applicant had had been convicted of three misdemeanors.

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 October 18, 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 November 20, 2006. The appeal, however, was not received at the California Service Center until December 4, 2006.

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

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.



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ORDER: The appeal is rejected.