

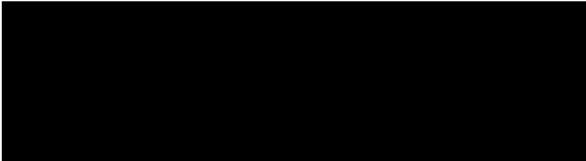
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FILE:



Office: VERMONT SERVICE CENTER

Date: JUN 01 2007

[EAC 05 214 75284]

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 office that originally decided your case. Any further inquiry must be made to that office.

Cindy M. Gomez
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is 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 under CIS receipt number EAC 02 112 51066. The applicant was granted Temporary Protected Status on March 20, 2003. The director subsequently withdrew the applicant's Temporary Protected Status on October 20, 2005, because the record of proceedings showed that the applicant had been convicted in New York of one count of operating a motor vehicle under the influence of drugs or alcohol on November 22, 1999, and one count of operating a motor vehicle under the influence of drugs or alcohol on September 10, 2004. (New York Penal Code VTL 11920.3). After a review of the record, the Chief, AAO, concurs with the director's withdrawal decision.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on October 21, 2005, 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 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 is dated October 21, 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 November 23, 2005. The appeal was received at the Vermont Service Center on December 7, 2005.

An alien applying for temporary protected status 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. The applicant has failed to meet this burden.

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



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ORDER: The appeal is rejected.