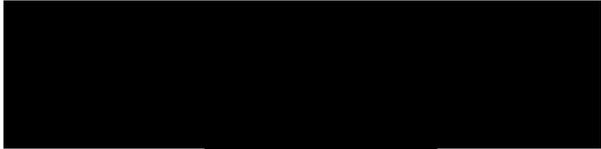


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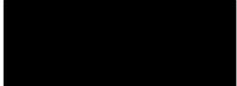
U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: California Service Center

DATE:

**JUN 04 2007**

[WAC 01 239 56361]

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. 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.<sup>1</sup>

The director denied the application on the ground that the applicant has been convicted of a felony crime, making him ineligible for TPS under section 244(c)(2)(B) of the Act. The record includes a final court disposition of the Superior Court of Pinal County, State of Arizona, dated March 25, 1996, confirming that the applicant pleaded guilty to a class 5 felony offense of "Aggravated Driving While Under the Influence of Intoxicating Liquor," committed on March 7, 1993.

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 April 8, 2004. 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 Tuesday, May 11, 2004. As the receipt stamp on the Form I-290B indicates, however, the applicant's appeal was received at the California Service Center on May 13, 2004.

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.

**ORDER:** The appeal is rejected.

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<sup>1</sup> The record indicates that the applicant previously filed an Application for Temporary Resident Status as a Special Agricultural Worker (Form I-700) under section 210 of the Act. That application, filed on April 12, 1988, was denied by the Director, Western Service Center, on January 31, 1992, and the applicant's appeal was dismissed by the AAO on October 10, 2000.