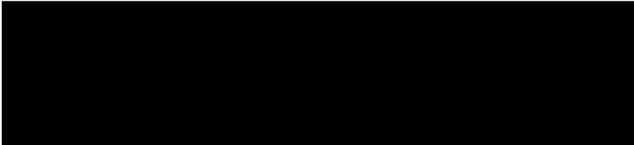


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U.S. Citizenship
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MAR 05 2007

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:
[WAC 05 215 73960]

IN RE: Applicant: [REDACTED]

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 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 record indicates that the applicant filed an initial TPS application on July 27, 2004, under Citizenship and Immigration Services (CIS) receipt number WAC 04 215 51651. The director denied that application on October 18, 2004, because the applicant had failed to establish his qualifying continuous residence in the United States since February 13, 2001. On November 17, 2004, the applicant filed an appeal from the denial decision and submitted evidence in an attempt to establish residence in the United States. The case was subsequently reopened by the director on January 27, 2005, based on a Service Motion to Reopen, and the applicant was requested, in a Notice of Intent to Deny (NOID) dated February 22, 2005, to submit evidence to establish: (1) that he was eligible for late registration; (2) that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application; and (3) nationality and identity. On April 6, 2005, the director denied the application after determining that the applicant had failed to respond to the NOID. It is noted that the applicant's response to the NOID was received at the California Service Center on April 1, 2005; however, the applicant furnished the same evidence previously submitted in his attempt to establish residence in the United States. The applicant neither addressed nor submitted any evidence to establish eligibility for late initial registration and to establish his nationality and identity.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, and indicated that he was re-registering for TPS. The director denied the re-registration application on March 21, 2006, 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 the Service has 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 March 21, 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 April 24, 2006. The appeal (Form I-290B) was subsequently returned to the applicant because the applicant had initially failed to sign the check or other form of payment. The appeal was received at the California Service Center on May 24, 2006.

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

The Federal Bureau of Investigation fingerprint results report indicates that on November 7, 2004, in Oakland, California, the applicant was arrested for "vandalism, damage property." The final court disposition of this arrest is not included in the record. CIS must address this arrest and/or conviction in any future decisions or proceedings.

It is further noted that in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States, the applicant submitted copies of 20 earnings statements from 3 different alleged employers. All appear to have been altered as the original employee name and address on each of these documents seem to have been covered-over and the applicant's name and address were inserted in their place. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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.