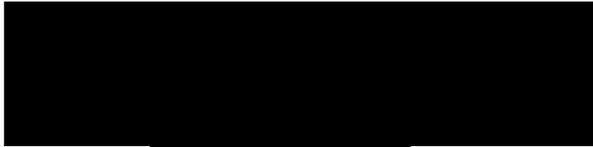


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**U.S. Citizenship  
and Immigration  
Services**

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FILE:

[WAC 05 228 85021]

Office: CALIFORNIA SERVICE CENTER

Date:

**MAR 26 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:

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 (AAO) on appeal. The appeal will be rejected.

The applicant is 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 reveals that the applicant filed a TPS application during the initial registration period on December 10, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 02 063 54029. The Director, California Service Center, denied that application on May 2, 2006, because the applicant failed to submit requested court documentation relating to his criminal record. There is nothing in the record to indicate that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 16, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application 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, dated May 2, 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 June 4, 2006. The appeal, however was not received at the California Service Center until June 7, 2006.

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

The record shows that on September 24, 1997 an immigration judge granted the applicant voluntary departure until January 22, 1998 with an alternate order of removal if he should fail to depart as required. The applicant failed to depart from the United States as required. A Warrant of Removal/Deportation, Form I-205, was issued on January 26, 1998, based on the applicant's failure to depart from the United States. The applicant failed to appear at the Dallas district office on September 11, 1998, for his enforced departure.

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.