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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE:



OFFICE: California Service Center

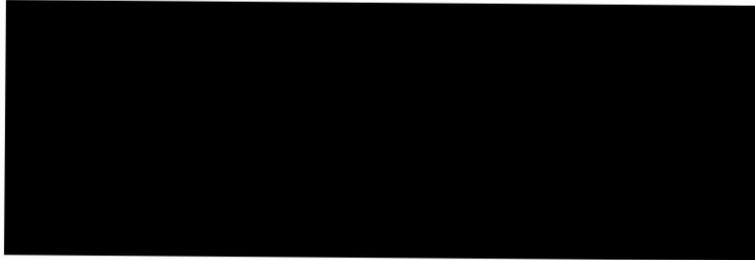
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IN RE:

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 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 director denied the application on the ground that the applicant failed to submit sufficient evidence of the final court disposition(s) of his arrests.

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 December 2, 2003. 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 and an additional day allowed under 8 C.F.R. § 1.1(h), the appeal in this case should have been filed on or before Monday, January 5, 2004. As the receipt stamp on the Form I-290B indicates, however, the applicant's appeal was received at the California Service Center on January 6, 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.

The AAO also notes that the applicant has been placed under removal proceedings under A70 004 161. The final disposition of those proceedings is not contained within the current record.

ORDER: The appeal is rejected.