



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER
[SRC 01 181 65771]

Date: APR 27 2007

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant claims to be a citizen of El Salvador who filed an initial Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services receipt number SRC 01 181 65771. The Texas Service Center Director approved that application on September 4, 2002. The CSC director subsequently withdrew the applicant's TPS on August 7, 2006, when it was determined that although the applicant had provided some information concerning his past arrests, he had failed to provide court dispositions for his arrest on November 21, 1999 for disorderly intoxication, trespass and resisting arrest without violence.

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).

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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 withdrawal decision, dated August 7, 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 should have been filed on or before September 11, 2006. The instructions to the Form I-290B, Notice of Appeal, very clearly dictate that the appeal is not to be sent directly to the AAO; but, rather, to the "office which made the unfavorable decision." The applicant, nevertheless, sent his appeal to the AAO. The appeal is not considered properly received until it is received by the Service Center that rendered the unfavorable decision. The appeal was properly received at the CSC on September 19, 2006.

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

Although not addressed by the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish his nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

Furthermore, on April 22, 1997 in deportation proceedings, an Immigration Judge in Miami, Florida, granted the applicant voluntary departure from the United States on or before April 22, 1998, with an alternate order of deportation if the applicant should fail to depart as required. There is no evidence in the record that the applicant departed from the United States as required.

[REDACTED]
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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.

ORDER: The appeal is rejected.