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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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AUG 03 2007

FILE: [REDACTED]
[WAC 05 204 71862]

Office: California Service Center

Date:

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied and the TPS status of the applicant was withdrawn by the Director, California Service Center. The application 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 his initial TPS application on March 26, 2001. The director approved that application on March 22, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 22, 2005, and indicated that he was re-registering for TPS. On January 11, 2006, the director sent a notice of intent to withdraw the approval of the applicant's TPS and requested the applicant to submit the final court dispositions of his past arrests.

The director withdrew the applicant's TPS status on August 11, 2006, because the applicant did not respond the director's request.

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 or her 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, dated August 11, 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 September 13, 2006. The director's notice is very clear in indicating that the appeal is to be sent directly to "this office," the California Service Center, that 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 California Service Center on October 4, 2006.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

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

ORDER: The appeal is rejected.