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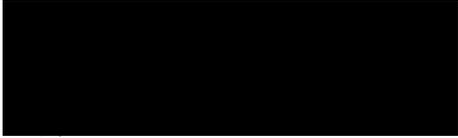
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

MI



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: FEB 09 2005

[WAC 03 254 52554]

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, Director
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 indicates that the applicant filed a prior Form I-821 on April 5, 2002. On August 26, 2002, the applicant was requested to provide a certified copy of the final court disposition of his arrest on April 13, 2002, by officers of the Sheriff's Department, Oakland, California, on one count of "Inflicting Corporal Injury on a Spouse or Cohabitant." The applicant failed to respond to the notice. The director, therefore, denied that application due to abandonment on May 7, 2003, because the applicant failed to provide a copy of the final court disposition as requested. The applicant was granted 30 days to contest the director's decision; however, he failed to do so.

On August 19, 2003, the applicant filed the current Form I-821, Application for Temporary Protected Status. The director denied the application on March 9, 2004, because the applicant failed to establish he was eligible for late registration.

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 March 9, 2004, 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 12, 2004. The applicant initially submitted his appeal on April 1, 2004, but the application was rejected and returned to the applicant because he failed to sign the appeal form. The appeal was properly filed with the California Service Center on April 13, 2004.

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

It is noted that the record contains Federal Bureau of Investigation (FBI) reports indicating the following arrests:

1. On April 13, 2002, the applicant was arrested by Sheriff's Department officers in Oakland, California, and charged with one count of "Inflicting Corporal Injury on a Spouse or Cohabitant."
2. On March 25, 2003, the applicant was arrested by police officers in Los Angeles, California, and charged with one count of "Inflicting Corporal Injury on a Spouse or Cohabitant."

3. On September 29, 2003, the applicant was arrested by police officers in Los Angeles, California, and charged with one count of "Inflicting Corporal Injury on a Spouse or Cohabitant."

Although the applicant has not provided certified copies of the final court dispositions of these charges, he may also be ineligible for TPS under 8 C.F.R. § 244.4(a) as an alien who has been convicted of a felony or two or more misdemeanors. In addition, the applicant may be inadmissible under section 212(a)(2)(A)(i)(I) of the Act. As the appeal will be dismissed because it was not timely filed, this matter will not be addressed further at this time.

ORDER: The appeal is rejected.