

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy.

PUBLIC COPY

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



U.S. Citizenship
and Immigration
Services

M



FILE: [REDACTED]
[SRC 03 055 54375]

Office: TEXAS SERVICE CENTER Date: **JAN 24 2005**

IN RE: Applicant: [REDACTED]
a.k.a. [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: 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.

Cindy M. Homen
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 director denied the application because the applicant failed to establish that he was eligible for late initial 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 May 13, 2003, 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 16, 2003. The appeal was received at the Texas Service Center on August 5, 2003.

It is noted that the statement and evidence submitted on appeal would not have overcome the finding of the director. The applicant states that he was previously granted a work authorization and does not understand why his application would have been denied. The receipt notices submitted by the applicant on appeal, however, indicate that he received employment authorization for the period encompassing July 25, 1995 through June 4, 1997, under Category C8, relating to applicants with pending asylum applications. Further, the record also contains a letter from the Director, Texas Service Center, dated January 28, 1997, stating that the employment authorization under 8 C.F.R. § 274a.12(c)(8), was being denied because there was no evidence establishing that the applicant currently had an application for asylum pending.

In addition, the record contains Forms I-821, Application for Temporary Protected Status, and Forms I-765, Application for Employment Authorization, for 1991 and 1992. It is noted that these applications pertain to the previous designation of El Salvador for TPS benefits. The TPS program for Salvadorans was first initiated on January 1, 1991, and terminated on June 30, 1992. A Deferred Enforced Departure (DED) program was then initiated on June 30, 1992, and subsequently expired on December 31, 1994. The official publications regarding these earlier programs are available to the public on the Citizenship and Immigration Service (CIS) website, uscis.gov. As stated in the CIS publication: "Those earlier TPS and DED programs are unrelated to the year 2001 TPS designation for El Salvador."

The current 2001 designation of El Salvador for TPS benefits required that El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. It is noted that the applicant submitted evidence that covered years prior to the current designation of the TPS program for El Salvador, but did not submit any evidence to establish his

continuous residence and continuous physical presence in the United States during the requisite periods for the current TPS program. He has, therefore, also failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c).

It is further noted that the record contains an Order to Show Cause, issued at Tampa, Florida, on January 9, 1992, placing the applicant in deportation proceedings and alleging his entry without inspection into the United States on or about July 27, 1990, at San Ysidro, California. The Order of the Immigration Judge, Miami, Florida, dated March 26, 1992 reflects that the applicant's deportation proceedings were administratively closed.

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

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.