

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M1

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 15 2005

[WAC 03 254 54568]

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 on appeal. The appeal will be rejected.

The applicant claims to be 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 had failed to establish that 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 23, 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 26, 2004. The appeal was received at the California Service Center on May 5, 2004.

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

It is noted that the applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative, filed on his behalf by his lawful permanent resident mother on February 21, 1992, and an unadjudicated Form I-485, Application to Adjust Status, filed on February 17, 2000.

It is further noted that the applicant, on appeal, furnished copies of the following records of arrests and/or convictions in California:

- (1) Arrested on October 24, 1999 (Docket No. [REDACTED] for violation of 22100(b) VC. The record shows that the applicant was subsequently convicted of this offense on February 2, 2000.
- (2) Arrested on July 16, 2000 (Docket No. [REDACTED] for Count 1, drunk driving alcohol/drugs, 23152(a) VC; and Count 2, FTA/traffic warrant, 40508(a) VC. The record shows that the applicant was subsequently convicted of Count 1 on September 19, 2000.
- (3) Arrested on December 15, 2000, for Count 1, "driving while license suspended for prior DUI conviction," 14601.2(a) VC; Count 2, driving without evidence of financial responsibility, 16028(a) VC; Count 3, unlawful lighting equipment, 24252(a) VC; Count 4, driving while license suspended/revoked, 14601.5(a) VC.

Convictions of these offenses may render the applicant ineligible for TPS pursuant to section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). However, the actual final court dispositions of these arrests are not contained in the record.

The record contains a Warrant of Removal/Deportation, Form I-205, issued in Los Angeles, California, on May 20, 1997, based on the final order of removal by an immigration judge on January 15, 1997.

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.