

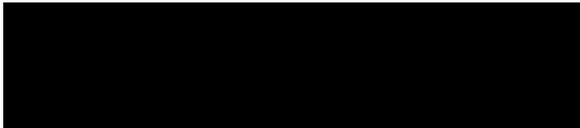
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U.S. Citizenship  
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invasion of personal privacy**

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FILE:



Office: TEXAS SERVICE CENTER

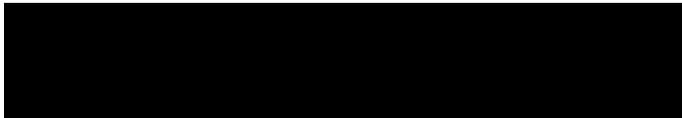
Date: **OCT 04 2005**

[SRC 03 170 53241]

[Appeal: SRC 04 026 50264]

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, Texas Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). While the earlier appeal was pending, and prior to the issuance of the AAO's dismissal of the earlier appeal, the applicant filed this appeal; this appeal, however, was not forwarded to the AAO prior to the AAO's decision. This appeal is now before the Administrative Appeals Office (AAO). The appeal will be rejected, and the previous decision of the AAO will be affirmed.

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 service center director denied the application on July 15, 2003, because the applicant failed to establish his eligibility for late initial registration.

On August 12, 2003, the applicant filed an appeal from the director's decision. That appeal was dismissed on August 24, 2004, by the Director of the AAO, after he also concluded that the applicant had failed to establish that he was eligible for late registration.

On November 3, 2004, the service center forwarded to the AAO another appeal that the applicant had filed on November 4, 2003, while the initial appeal was still pending. In this appeal, the applicant reasserts his claim of eligibility for TPS and submits receipt notices for his June 2, 2003, initial TPS and employment authorization applications.

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 July 15, 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 August 18, 2003. As discussed, the applicant had also filed another timely appeal that was dismissed by the AAO. This appeal, however, was not received at the Texas Service Center until November 4, 2003.

Based upon the applicant's failure to file a timely appeal, this 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. The previous decision of the AAO dated August 24, 2004, is affirmed.