

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



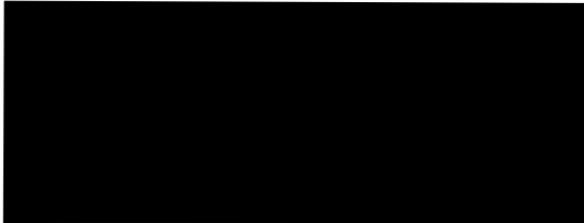
M1

FILE: [REDACTED]
[WAC 01 226 56622]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: DEC 18 2006

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

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 had failed to submit requested court documentation relating to his criminal record.

The appeal from the director's decision was dismissed on May 27, 2005, after the Director of the AAO also concluded that the applicant had not submitted the requested final court disposition of his arrests.

A motion to reopen or reconsider must be filed within thirty days of the underlying decision, except that failure to file during this period may be excused at the Service's discretion when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i).

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 record shows that the AAO issued a decision dated May 27, 2005. Coupled with three days for mailing, the motion, in this case, should have been filed on or before June 29, 2005. The motion to reopen was received on July 13, 2005. The applicant neither addressed nor submitted any evidence to demonstrate that the delay was reasonable and was beyond his control.

It is noted that the applicant submitted, on motion, the record of the Municipal Court of Criminal Justice Center, (LAC) Judicial, County of Los Angeles, California, Case No. [REDACTED], indicating that on May 4, 1992, the applicant was indicted for Burglary, 459 PC, a felony. At a preliminary hearing held on May 27, 1992, the court denied the applicant's motion to dismiss, and he was instructed to appear for "felony arraignment/plea" on June 10, 1992, in Superior Court of Los Angeles County, Central District. The outcome of the June 10, 1992, hearing is not known as the applicant failed to submit the final disposition of the felony charge.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the motion to reopen was not filed within the allotted time period. Accordingly, the motion will be dismissed and the previous decision of the AAO will be affirmed.

ORDER: The motion is dismissed. The previous decision of the AAO dated May 27, 2005, is affirmed.