

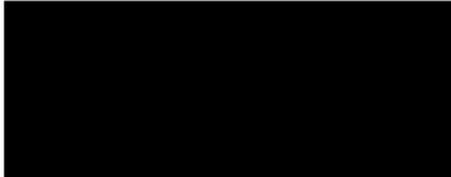
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUN 28 2006

[WAC 05 102 75266]

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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a citizen of Honduras who was granted Temporary Protected Status on December 28, 1999, under receipt number EAC 99 189 52972.

The director denied the applicant's application for re-registration, under section 244 of the Act, on July 12, 2005, because the applicant failed to provide the Service with a "certified copy of the final court disposition" of his arrest on September 14, 2002, for "1-VC3731 DUI ALCHOL OR CONTLR SUBST."

It is noted that the director, in his denial decision dated July 12, 2005, advised the applicant that an appeal must be filed within 30 calendar days (33 days if the appeal is mailed), and that the applicant's appeal must be submitted to the California Service Center.

The applicant filed an appeal on August 19, 2005

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 12, 2005, clearly advised the applicant that any appeal must be properly filed with the appropriate office 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 15, 2005. The appeal was received at the California Service Center on August 19, 2005.

It is noted that the director should have withdrawn the applicant's Temporary Protected Status, as the applicant is ineligible for TPS because he failed to provide the final court disposition of his DUI arrest in 2002. Consequently, due to the applicant's failure to provide the final court disposition of his arrest, his Temporary Protected Status is also withdrawn in accordance with 8 C.F.R. § 244.14(a)(1).

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

ORDER: The appeal is rejected, and the applicant's Temporary Protected Status is withdrawn.