

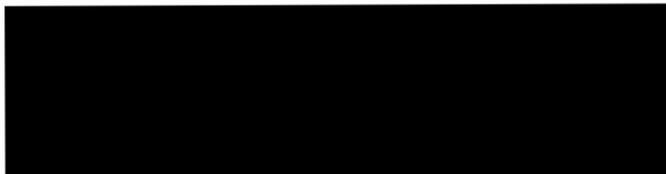
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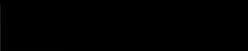


**U.S. Citizenship
and Immigration
Services**

M1



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **OCT 31 2006**

[WAC 05 159 72774]

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:



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 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 applicant filed his initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 191 64591. The director denied that application on December 1, 2004, due to abandonment because the applicant failed to appear to be fingerprinted or request another appointment to be fingerprinted. The director informed the applicant that there is no appeal from a denial due to abandonment, but that he could file a motion to reopen the case within 33 days of the date of issuance of the Notice of Decision.¹ The applicant did not file a motion to reopen the case.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 8, 2005, and indicated that he was re-registering for TPS or renewing his temporary treatment benefits.

The director denied the application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of his temporary treatment benefits. The denial decision was sent to the applicant at his address of record, [REDACTED] but was returned to the Texas Service Center as undeliverable mail.

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 August 16, 2005, 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 September 19, 2005. The applicant did not file the appeal with the California Service Center until December 20, 2005.

On appeal, counsel for the applicant states that the applicant had reported an address change to CIS, but never received the denial decision.

The record reveals that the applicant did not report his address change to CIS until October 12, 2005, almost two months *after* the issuance of the denial decision. It is the applicant's responsibility to promptly report all changes

¹ It is noted that both the fingerprint appointment notice and the denial decision were mailed to the applicant at his address of record, and there is no indication in the record that either notice was returned to the Texas Service Center as undeliverable mail.

of address to CIS. Therefore, the applicant's failure to receive the denial decision within 30 days is of his own making and is not due to error on the part of CIS.

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

It is noted that the applicant was ordered removed from the United States to El Salvador on December 27, 2000.

ORDER: The appeal is rejected.