

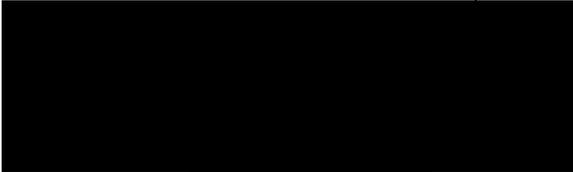
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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FILE:

[WAC 05 125 71054]

Office: CALIFORNIA SERVICE CENTER

Date: SEP 05 2006

IN RE:

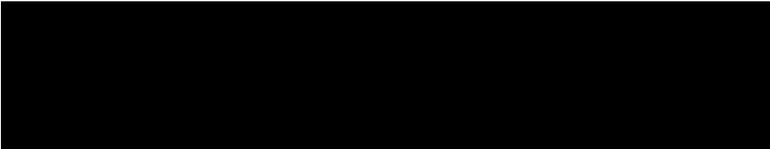
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

*Cindy N. Gomez*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed a Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) receipt number EAC 99 155 50588. The Vermont Service Center (VSC) Director denied that application on May 30, 2001, after determining that the applicant had abandoned his application by failing to respond to a request for evidence calling for him to submit the final disposition(s) for his arrests. The applicant filed a late appeal on July 11, 2001, forwarding police and court information concerning his arrests. The VSC Director treated this appeal as a motion to reopen, and denied the motion on August 16, 2001 as untimely filed.

A subsequent Form I-821 filed on June 26, 2003, was dismissed by the VSC Director on October 15, 2003, after she determined that the applicant was ineligible for late initial registration. An appeal to that determination was dismissed by the AAO Director on February 2, 2005.

The applicant filed the current Form I-821, on February 2, 2005, and indicated that he was re-registering for TPS.

The applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on June 6, 1999, in Newark, New Jersey, the applicant was arrested for (1) "CNT 2C:12-1B AGGRAVATED ASSAULT, " (2) "CNT 2C:39-4D POSS WEAPON UNLAWFUL PURPOSE," AND (3) CNT 2C:39-5D POSSESS WEAPON."

The FBI report also shows that on February 20, 2001, the Newark Municipal Criminal Court dismissed the following charges: (1) "CNT: 2C:33-2A(2) IMPROPER BEHAVIOR," (2) "CNT: 2C:12-A(1) SIMPLE ASSAULT," AND (3) "CNT: 2C:2-1A(3) SIMPLE ASSAULT."

Final court dispositions clearly showing the outcome of the three arrests on June 6, 1999 listed above have not been provided by the applicant and are not included the record of proceeding, nor is anything included in the record to indicate whether the arrests in 1999 and the unrelated charge codes that were dismissed stem from the same criminal acts.

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 June 25, 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 July 28, 2005. The appeal was received at the Texas Service Center on December 22, 2005.



An alien applying for TPS has the burden of proving that he or she meets the above requirements and is otherwise eligible under the provisions of section 244 of the Act.

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

**ORDER:** The appeal is rejected.