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U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAY 15 2007**

[WAC 05 215 80799]

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 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 record reveals that the applicant filed a TPS application during the initial registration period on May 6, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 167 54563. The Director, Texas Service Center, denied that application for abandonment on February 21, 2003, because the applicant failed to respond to a request for evidence to establish his nationality and identity. On March 10, 2003, the applicant submitted a statement indicating that he had submitted the requested evidence, and included a copy of his **passport. The case was reopened on January 20, 2004. The Director, Texas Service Center, denied the application again on May 4, 2004, because the applicant failed to submit requested court documentation relating to his criminal record. On June 4, 2004, the applicant filed an appeal from the denial decision. The Director, Texas Service Center, approved the application on June 4, 2004.**

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 3, 2005, and indicated that he was re-registering for TPS.

The director withdrew the applicant's TPS because the applicant had been convicted of two misdemeanors in the United States. The director, therefore, denied the applicant's re-registration application.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien is not in fact ineligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1). If a decision to withdraw TPS is entered by the AAO, the AAO shall notify the alien of the decision and the right to a de novo determination of eligibility for TPS in removal proceedings, if the alien is then removable. 8 C.F.R. § 244.14(c).

In this case, it has been determined that the applicant is ineligible for TPS due to his conviction of two misdemeanors. Therefore, in accordance with 8 C.F.R. § 244.14, the prior approval of the applicant's TPS status is hereby withdrawn.

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 March 23, 2006, 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 April 25, 2006. The appeal, however was not received at the California Service Center until April 26, 2006.

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