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U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



FIL



Office: Texas Service Center

Date:

DEC 18 2003

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

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

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The applicant appealed the decision of the AAO. A motion to reopen, rather than an appeal, is the proper forum in this case, pursuant to 8 C.F.R. § 103.5(a)(1)(i). The appeal, however, will be treated as a motion to reopen, pursuant to 8 C.F.R. § 103.5(a)(8). The motion will be dismissed, and the previous decision of the AAO will be affirmed.

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. § 1254a.

The director denied the application after determining that the applicant had failed to establish that he was eligible for filing after the initial registration period from January 5, 1999 to August 20, 1999.

The AAO noted that although the applicant provided evidence of his residence in the United States, no evidence was furnished to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). The AAO, therefore, concurred with the director's conclusion and dismissed the appeal on November 4, 2002.

On motion to reopen, the applicant submits additional evidence to establish that he has been residing in the United States since 1995. No evidence, however, was furnished to establish that he was eligible for TPS because during the initial registration period of January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2).

Pursuant to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceedings and be supported by affidavits or other documentary evidence. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). A review of the record reveals that the applicant has presented no new facts or other documentary evidence of late registration, in support of the motion to reopen.

Furthermore, pursuant to 8 C.F.R. 103.5(a)(1)(i), any motion to reopen a proceeding before the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service

(now CIS) where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

The applicant had 30 days after November 4, 2002, in which to file a motion to reopen or a motion to reconsider. This motion was received by CIS on December 10, 2002. The applicant has failed to demonstrate that the delay was reasonable and was beyond his control.

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. In addition, the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the decision of the AAO dated November 4, 2002, will be affirmed.

ORDER: The motion to reopen is dismissed. The decision of the AAO dated November 4, 2002, is affirmed.

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