



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted]

Office: TEXAS SERVICE CENTER Date: AUG 19 2014

IN RE: Applicant: [Redacted]

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 for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center on August 2, 2002. The applicant filed a timely appeal that was dismissed by the Administrative Appeals Office (AAO) on February 14, 2003. The matter is now before the AAO on a motion to reopen. The motion will be dismissed and the prior 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. § 1254.

The director denied the application because the applicant failed to establish he was eligible for late registration, and because he failed to respond to all of the requested information.

The AAO dismissed the appeal, finding that the applicant had submitted additional evidence related to his residence and physical presence in the United States, but that he had not established that he was eligible for late registration. The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The applicant in this case filed his initial application for registration on June 17, 2002, and did not submit any evidence to establish that he was eligible for late registration in accordance with the regulations at 8 C.F.R. § 244.2(f)(2).

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states in pertinent part:

...Any motion to reconsider an action by the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider. 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 where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy and must also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The regulation at 8 C.F.R. § 103.5(a)(4) states in pertinent part that: “[a] motion that does not meet applicable requirements shall be dismissed.”

The decision of the AAO director, dated February 14, 2003, clearly advised the applicant that any motion to reopen or reconsider must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before March 19, 2003. The motion was received by Citizenship and Immigration Services (CIS), on May 1, 2003.

The motion was clearly received after the allotted filing period. In addition, it is noted that on motion, the applicant states that he is submitting more evidence indicating that he has been living in the United States since 1998, and provides additional evidence related to his physical presence and residence in the United States. The

applicant does not provide evidence on motion that he is eligible for late registration, and does not offer an explanation as to why the motion was not filed within the allotted timeframe.

Because the motion was not timely and does not meet the applicable requirements in accordance with the regulations, the motion must be dismissed.

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 motion is dismissed, and the prior decision of the director AAO is affirmed.