

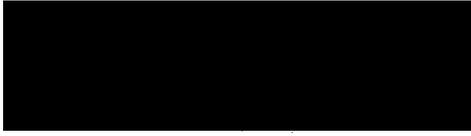
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**U.S. Citizenship  
and Immigration  
Services**



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FILE:  Office: Texas Service Center Date: **NOV 18 2004**

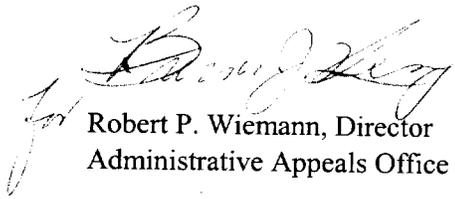
IN RE: Applicant: 

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.

  
for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center. A subsequent appeal was rejected by the Director, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The motion to reopen will be dismissed.

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 due to abandonment.

The appeal from the director's decision was rejected on April 1, 2003, after the Director of the AAO also concluded that the applicant had failed to establish her eligibility for TPS.

On motion to reopen, the applicant requests reconsideration of her case in order to be able to work and pay taxes in this country.

A motion to reopen or reconsider must be filed within thirty days of the underlying decision, except that failure to file during this period may be excused at the Service's discretion when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i).

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 previous decision from the AAO, dated April 1, 2003, clearly advised the applicant that any motion to reopen must be filed at "the office which rendered the initial decision." Coupled with three days for mailing, the motion, in this case, should have been filed at the Texas Service Center on or before May 5, 2003. The applicant, nevertheless, sent her motion to the AAO. The motion is not properly received until it is received at the office which rendered the unfavorable decision. The motion to reopen was received at the Texas Service Center on May 27, 2003.

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. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated April 1, 2003, is affirmed.