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FILE:



[SRC 02 161 54571]

Office: TEXAS SERVICE CENTER

Date: **DEC 23 2005**

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal and a motion to reopen were dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a second motion to reopen. The second 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 for TPS because the applicant failed to establish he was eligible for late registration.

The appeal from the director's decision was dismissed after the Director of the AAO also concluded that the applicant had failed to establish his eligibility for TPS. The applicant's first motion to reopen was dismissed because it did not address the applicant's eligibility for late registration. On this second motion to reopen, the applicant reasserts his claim of eligibility for TPS.

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 last AAO decision in this case was dated April 21, 2004. Any motion to reopen must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before May 24, 2004. The motion to reopen was received on June 23, 2004.

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 because the motion to reopen was not filed within the required time period. Accordingly, the motion to reopen is dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed and the previous decisions of the AAO dismissing the appeal are affirmed.