



U.S. Citizenship  
and Immigration  
Services

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*ML*

[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date: APR 03 2006

[SRC 02 195 55567]

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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office. A subsequent motion to reopen was denied by the Director, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on another 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 determined that the applicant failed to establish that she was eligible for filing her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application.

The appeal from the director's decision was dismissed on March 12, 2003, after the Director of the AAO also concluded that the applicant had failed to establish her eligibility for TPS. On the initial motion to reopen, the applicant asserts that she has provided all of the requested evidence. The Director of the AAO determined that the applicant failed to submit a timely motion and dismissed the motion on March 10, 2005. On the current motion, the applicant asserts that she has lived in the United States since 1998, and that she has provided all of the requested evidence.

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 was dated March 10, 2005. Coupled with three days for mailing, the motion, in this case, should have been filed on or before April 12, 2005. The motion to reopen was received at the Texas Service Center on May 10, 2005.

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 March 10, 2005, is affirmed.