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U.S. Citizenship
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FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date:

AUG 1 0 2006

[SRC 02 201 54069]

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center on November 21, 2002. The applicant filed a timely appeal that was dismissed by the Administrative Appeals Office (AAO) on July 21, 2003. The applicant filed a timely motion to reopen on August 25, 2003. While that motion was pending, the applicant again filed subsequent motions on August 27, 2003 and September 12, 2003. The AAO dismissed all the motions on March 3, 2005. The matter is again before the 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 because 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 motion to reopen the director's decision was dismissed on March 3, 2005, 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 reasserted her 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 previous decision from the AAO is dated March 3, 2005. 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 April 5, 2005. The motion to reopen was received at the Texas Service Center on May 16, 2005.

Beyond the director's decision, it is also noted that the record contains a Form I-205, Warrant of Removal and Deportation dated August 1, 2000.

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 3, 2005, is affirmed.