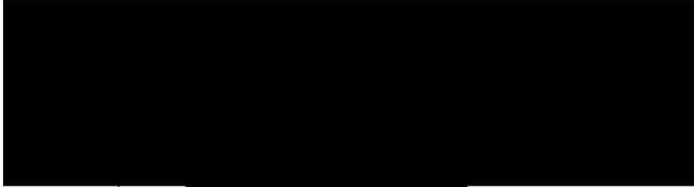


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invasion of personal privacy**



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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **DEC 29 2006**
[EAC 02 050 51996 - I-821]
[EAC 06 091 50981 - Motion]

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and an appeal from that decision was dismissed by the Chief, Administrative Appeals Office (AAO). A subsequent motion to reopen was also dismissed by the AAO. The matter is now before the AAO on a second motion to reopen. The motion to reopen will be dismissed and the previous decisions of the VSC and AAO will be affirmed.

The applicant is a 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 record reflects that the applicant filed her Form I-821, Application for Temporary Protected Status, on October 19, 2001, two years and two months after the initial registration period for Hondurans had ended. The director denied the application on January 22, 2003, because the applicant failed to establish her eligibility for late registration.

The applicant filed a timely appeal from that decision on February 20, 2003 (EAC 03 111 52503 relates). On appeal, counsel asserted that the applicant had, in fact, mailed the application to the VSC on August 20, 1999. A review of the record revealed that although the application was initially received by the VSC on August 23, 1999 (three days after the initial registration period for Hondurans had ended), it had been returned as incomplete and was not properly filed, with the required fee, until October 19, 2001. Therefore, on October 31, 2003, the AAO dismissed the appeal and reaffirmed the director's decision to deny the application based on the applicant's failure to establish her eligibility for late registration. The applicant filed a motion to reopen the AAO's decision on December 11, 2003 (EAC 04 050 53432 relates).

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 discretion of Citizenship and Immigration Services (CIS) 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).

On motion, counsel again asserted that the applicant had sent her initial Form I-821 to the VSC on August 20, 1999. The motion was dismissed as late by the AAO on December 12, 2005. The applicant has now filed a motion to reopen that decision.

The latest decision from the AAO is dated December 12, 2005. Coupled with three days for mailing, the motion, in this case, should have been filed on or before January 16, 2006. The motion to reopen was received on February 6, 2006, three weeks after the closing of the filing period. On motion, counsel asserts that the previous motion should have been accepted as timely but for a delay on the part of the UPS shipping company, or, in the alternative, a delay in the processing of its receipt by the VSC.

The record confirms that the applicant filed her Form I-821 after the initial registration period had ended, and has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently the decision of the director to deny the application is, again, affirmed. The prior decisions of the AAO are also reaffirmed.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to her.

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 previous decisions of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The decision of the director to deny the application, dated January 22, 2003, is affirmed. The previous decisions of the AAO, dated October 31, 2003, and December 12, 2005, are also affirmed. The application remains denied.