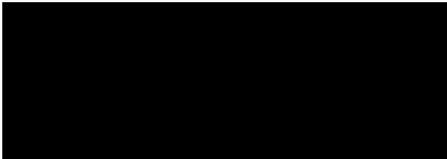


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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAY 03 2006

[WAC 01 288 50704]

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, California Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant is a native and citizen of El Salvador 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 on April 5, 2004, after noting that although the applicant submitted the court disposition of her arrest and conviction on March 17, 2000, of the misdemeanor offense of inflicting corporal injury on a spouse, she failed to submit the final court disposition of her arrest on August 7, 1998, for the felony offense of "spouse beating."

The applicant appealed the director's decision on March 11, 2004. The AAO rejected the appeal on February 3, 2005, based on the applicant's failure to file a timely appeal. The AAO also noted that the applicant, on appeal, had not overcome the director's finding as she still had failed to submit the final court disposition of her August 7, 1998 arrest.

On motion, the applicant submits a letter dated April 26, 2005, from the Superior Court of California, County of Los Angeles, stating, "No records found for arrest date of 08-07-98." It is noted that the information used by the court to search their records was under the name of [REDACTED]. It does not appear that the court searched their records under other names the applicant had used, and other pertinent arrest information. Furthermore, there is no evidence that the applicant's case was heard at this court. It may be assumed that the applicant would have known where her case was heard.

Pursuant to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceedings and be supported by affidavits or other documentary evidence. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). A review of the record reveals that the applicant has presented no new facts or other documentary evidence to overcome the director's initial denial.

Furthermore, pursuant to 8 C.F.R. 103.5(a)(1)(i), any motion to reopen a proceeding before CIS filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of CIS where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

The applicant, in this case, had 30 days from February 3, 2005, in which to file a motion to reopen or a motion to reconsider. This motion was received by the California Service Center on June 3, 2005, four months after the AAO dismissed the appeal. The applicant has not demonstrated that the delay was reasonable and was beyond her control.

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The motion is dismissed. The decision of the AAO dated February 3, 2005, is affirmed.