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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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*MM*

[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date:

APR 13 2007

[SRC 03 200 55233]

[SRC 05 019 51000 – 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:

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center. A subsequent appeal was rejected by the Director, now Chief, Administrative Appeals Office (AAO). The matter is now 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 her eligibility for late initial registration.

The appeal from the director's decision was dismissed on September 13, 2004, after the AAO also concluded that the applicant had failed to establish her eligibility for TPS.

On motion to reopen, the applicant reasserts her claim of eligibility for TPS. She states that she entered the United States in 1998, and would like the opportunity to be legal in the United States. In support of the motion, the applicant submits additional evidence relating to her residence and physical presence in the United States, and resubmits some of the materials that were previously entered into the record. The applicant does not however, submit any evidence relating to her eligibility for late initial registration.

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 September 13, 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 October 18, 2004. The motion to reopen, however, was not properly received at the Texas Service Center until November 10, 2004.

Therefore, 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.

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

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated September 13, 2004, is affirmed.