



U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

PUBLIC COPY



M

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 28 2007**  
[WAC 05 054 70738]

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. P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. The matter is now before the AAO on a motion to reopen. The motion to reopen will be rejected.

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 reveals that the applicant filed her initial TPS application on August 1, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 254 54727. The record reflects that the Director, Texas Service Center, denied that application for TPS on January 29, 2003, because the applicant failed to establish her eligibility for TPS late registration. The applicant filed an appeal on February 20, 2003, which was dismissed by the AAO on April 5, 2004. On April 29, 2004, the applicant filed a motion to reopen which was dismissed by the AAO on October 31, 2006.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on November 23, 2004, and indicated that she was re-registering for TPS. On July 23, 2005, the director denied the instant re-registration application because the applicant's TPS had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed an appeal on August 4, 2005, which was dismissed by the AAO on October 13, 2006.

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).

Any motion to reopen must be properly filed within thirty days after service of the decision. 8 C.F.R. § 103.3(a)(2)(i). Coupled with three days for mailing, the motion, in this case, should have been filed on or before November 15, 2006. The applicant submitted a motion which was received by CIS on April 20, 2007.

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

Based upon the applicant's failure to file a timely appeal, the motion will be rejected.

**ORDER:** The motion is rejected.