

**identifying data deleted to  
prevent clear and warranted  
invasion of personal privacy**

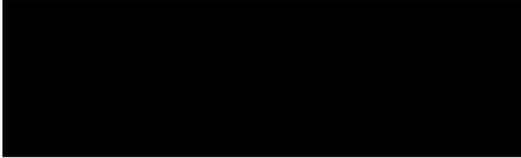
U.S. Department of Homeland Security  
20 Mass. Ave. N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

NCI

**PUBLIC COPY**



FILE: [REDACTED]  
[SRC 01 262 54791]

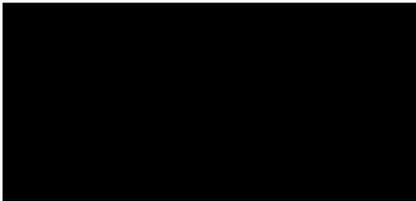
Office: Texas Service Center

Date: JUN 15 2007

IN RE: Applicant: [REDACTED]

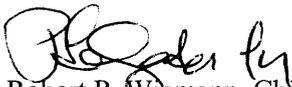
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Texas 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 (TSC). A subsequent appeal was dismissed by the Director, 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 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 TSC director denied the application on January 27, 2004, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. On February 20, 2004, the applicant filed an appeal which was dismissed by the Director, now Chief, of the AAO on February 24, 2005.

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 must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before March 29, 2005. The motion was received by the TSC on April 8, 2005. Further, counsel did not demonstrate that the delay in filing a motion was reasonable or beyond the control of the applicant.

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.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated February 24, 2005, is affirmed.