



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: MAR 07 2007
[WAC 05 125 80022]

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:
[REDACTED]

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, 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 re-registration application on May 11, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The applicant appealed the director's decision to the AAO on June 14, 2005. The AAO reviewed the record of proceeding and noted that the applicant's initial TPS application [WAC 01 187 53801] was denied by the District Director, San Francisco, California, on August 19, 2002, because the applicant had failed to appear for a scheduled interview regarding his TPS application, and that the applicant did not file a motion to reopen within 30 days from the date of the denial. Because the applicant had not previously been granted TPS, the applicant was not eligible to re-register for TPS; therefore, the AAO affirmed the director's decision. The AAO also noted that the applicant had failed to provide any evidence: (1) to establish that the application [for re-registration] should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2); and (2) to establish his qualifying continuous residence [since February 13, 2001] and continuous physical presence [since March 9, 2001] as described in 8 C.F.R. § 244.2(b) and (c). The AAO, therefore, dismissed the appeal on June 2, 2006.

A motion to reopen was filed on August 8, 2006. The applicant states that he did not go to the interview because he "never received the notice because my cousin's husband did not give my mail to me and I did not get it on time." He further states that in addition, he is applying for late initial registration in the event that his motion to reopen is not approved.

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 in support of the motion to reopen, and as addressed by the AAO in its decision dated June 2, 2006.

Furthermore, pursuant to 8 C.F.R. 103.5(a)(1)(i), any motion to reopen a proceeding before the Service [now, Citizenship and Immigration Services (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.

The applicant, in this case, had 30 days from June 2, 2006, in which to file a motion to reopen or a motion to reconsider. This motion was received by the California Service Center on August 6, 2006. The applicant has not demonstrated that the delay was reasonable and was beyond his 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 June 2, 2006, is affirmed.