



U.S. Citizenship
and Immigration
Services

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FILE:

Office: California Service Center

Date: **SEP 19 2007**

[SRC 05 133 52012 as it relates to SRC 03 176 55106]

IN RE:

Applicant:



APPLICATION:

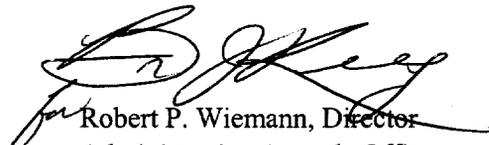
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 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 a late initial TPS application on June 6, 2003, under CIS receipt number SRC 03 176 55106. The director, Texas Service Center, denied the application on September 23, 2004, because the applicant failed to establish that she was eligible for late initial registration for TPS. A subsequent appeal was dismissed by the Director, (AAO), on February 7, 2005. The AAO affirmed the director's decision to deny the application for late initial registration for TPS. The AAO also noted, beyond the decision of the director, that the applicant failed to provide sufficient evidence to establish her qualifying continuous residence and her physical presence during the requisite time periods, and dismissed the appeal on these additional grounds.

On motion to reopen, the applicant states that she has been in the United States since she entered in 1997, and she would like the opportunity to live and work freely in this country to support her family. With her motion, the applicant submits additional documents. However, the applicant does not submit any evidence to establish eligibility for late initial registration for TPS.

A motion that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(B)(1). 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 decision of Director, (AAO), is dated February 7, 2005. Any appeal 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 appeal, in this case, should have been filed on or before March 13, 2005. The appeal was received at the Texas Service Center on April 11, 2005.

As always in these proceedings, the burden of proof 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. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO, dated February 7, 2005, is affirmed.