



U.S. Citizenship  
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: FEB 01 2008  
[EAC 07 12650123 Motion]  
[WAC 05 123 71298 Application]

INRE: 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 Vermont 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, California Service Center. 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 stated to be a native and citizen of EI 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 01 198 55781 during the initial registration period. The Director, Texas Service Center, denied that application on October 4, 2004, after determining that the applicant had failed to establish her qualifying continuous residence in the United States during the requisite time period.

The applicant filed a subsequent Form I-821 on January 31, 2005, and indicated that she was re-registering for TPS.

The Director of the California Service Center denied the application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. A subsequent appeal was dismissed by the Chief, AAO, on May 8, 2006, who determined that in addition to not being eligible to apply for re-registration, the applicant was also ineligible for late initial registration, that she had also failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001, and that she had not submitted sufficient evidence to establish her nationality and identity.

On motion to reopen, the applicant reasserts her claim of eligibility for TPS.

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 AAO decision was dated May 8, 2006. Any motion to reopen must be filed within thirty days after service of the decision. 8 C.F.R. § 103.5(a)(1)(i). Coupled with three days for mailing, the motion, in this case, should have been filed on or before June 12, 2006. The motion to reopen was received on November 27, 2006.

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 because the motion to reopen was not filed within the required time period. Accordingly, the motion to reopen is dismissed and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed and the previous decision of the AAO dismissing the appeal is affirmed.