

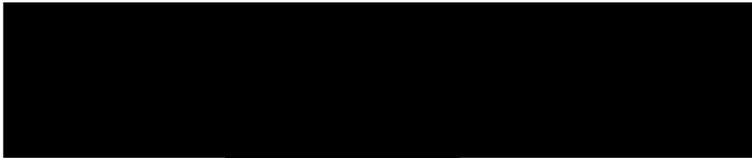
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

[SRC 04 086 54779]
[EAC 07 232 50341, *motion*]

OFFICE: Vermont Service Center

DATE:

FEB 19 2008

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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 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 his initial TPS application on February 3, 2004, under CIS receipt number SRC 04 086 54779. The Director, Texas Service Center, denied the application on March 29, 2004, because the applicant had failed to establish his eligibility for late registration, his qualifying continuous residence and his continuous physical presence in the United States during the requisite periods. The director also determined that the applicant had failed to provide a copy of his original birth certificate with English translation as requested.

The appeal from the director's decision was dismissed on May 24, 2005, after the Chief of the AAO also concluded that the applicant had failed to establish his eligibility for TPS. The applicant submitted a motion to reopen which was dismissed on March 6, 2007, because the applicant failed to articulate any basis of eligibility or address the reasons for the dismissal of the application.

On motion to reopen, the applicant asks CIS to reopen and reconsider this TPS case and give him the opportunity to be legal in the United States. He further states that he has lived in the United States since 1998 and that he has all of the evidence to prove that he has been in the United States since that time.

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 decision from the AAO was dated March 6, 2007. Any motion to reopen must have been 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 April 9, 2007. The motion to reopen was received on July 31, 2007.

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. 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 May 24, 2005, is affirmed.