

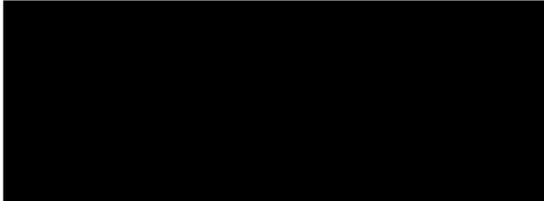
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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **JAN 29 2008**
[EAC 06 354 74707]
[EAC 08 006 54901-motion]

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: 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, Vermont 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 to reopen will be dismissed.

The applicant claims to be a 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 application because the applicant failed to establish she was eligible for late registration.

The applicant's appeal from the denial of her application was dismissed on August 24, 2007, as the AAO concurred with the director's findings. On motion to reopen, the applicant reasserts her claim of eligibility for TPS.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) requires that a motion to reopen a proceeding must be filed within 30 days of the underlying decision, and that a motion to reopen must be filed within 30 days except that failure to file a motion to reopen during this period may be excused when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant.

Pursuant to 8 C.F.R. § 103.5(a)(4), a motion that does not meet applicable requirements shall be dismissed.

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 AAO rendered its decision on August 24, 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 September 26, 2007. This motion, dated October 3, 2007, was received on October 4, 2007, 43 days after the date of the AAO's decision. The applicant has not set forth any reason for the delay. The motion is untimely.

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 August 24, 2007, is affirmed.