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U.S. Citizenship  
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **JAN 29 2008**  
[WAC 05 090 86899]  
[EAC 07 245 51691-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 California 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. An appeal was dismissed by the Administrative Appeals Office (AAO). A motion to reopen was filed that was subsequently dismissed by the AAO. The matter is again before the AAO on a second motion to reopen. The previous decisions of the AAO will be affirmed and the motion will be dismissed.

The applicant claims to be a 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 reflects that the applicant filed an initial Form I-821, Application for Temporary Protected Status, subsequent to the initial registration filing period. On July 15, 2002, the Director, Texas Service Center, denied the application as the applicant failed to establish eligibility for late initial registration.

The applicant filed a subsequent Form I-821 application on December 29, 2004, and indicated he was re-registering for TPS. On October 13, 2006, the Director, Vermont Service Center, denied the application because the applicant's initial TPS application has been denied and the applicant was not eligible to file for re-registration for TPS. The applicant's appeal from the denial of his application was dismissed on February 28, 2006, as the AAO concurred with the director's findings. The applicant filed a motion to reopen that was dismissed by the AAO on June 27, 2007, as the issue on which the underlying decision was based had not been addressed or overcome on motion.

On motion, the applicant once again reasserts his claim of eligibility for TPS and requests that his application be reconsidered. The applicant claims that he is filing the motion late because "I just received this notification last week, I change my address on June 27, 2007...." The applicant provides a printout reflecting an electronic confirmation number for his Form AR-11 from Citizenship and Immigration Services website.

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 June 27, 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 July 30, 2007. The motion was dated August 22, 2007, and was received on August 27, 2007, over two months after the date of the AAO's decision.

While the applicant provides a printout reflecting an electronic change of address had been confirmed, the printout does not reflect the actual date the change of address was implemented. The applicant has not demonstrated that the delay was reasonable and beyond his control. 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 decisions of the AAO dated February 28, 2006, and July 27, 2007, are affirmed.