



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy**

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[REDACTED]

FILE: [REDACTED]  
[SRC 02 216 54469]

Office: TEXAS SERVICE CENTER Date:

**JAN 26 2005**

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:

**PUBLIC COPY**

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.

*Cindy N. Gomez*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center on September 6, 2002. The applicant filed a timely appeal that was dismissed by the Administrative Appeals Office (AAO) on February 28, 2003. The applicant filed a motion to reopen on August 25, 2003. While that motion was pending, the applicant filed a subsequent motion to reopen on September 8, 2003. The motions will be dismissed and the prior decision of the AAO director will be affirmed.

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 director, Texas Service Center, denied the application because the applicant failed to establish he was eligible for late registration. The director also determined that the applicant had failed to establish his continuous residence in the United States since December 30, 1998, and his continuous physical presence in the United States since January 5, 1999. The AAO director dismissed the appeal, affirming the service center director's determination that the applicant had not established his eligibility for TPS benefits.

The applicant filed the initial motion to reopen on August 25, 2003, in response to the AAO director's decision. The applicant states that he has been living in the United States since the year 1998. The applicant asks that his case be reopened and that he be given: "the opportunity to continue being legal in this country in which with a lot of difficulty I have lived here having the opportunity of being employed and also given the chance to pay my taxes." In support of this motion, the applicant submits additional evidence.

On September 8, 2003, the applicant filed a second motion to reopen, this time stating that he had lived here without having a better opportunity in employment and a chance to pay his taxes. He further states in the second motion that he would not like to lose his work permit. The applicant also states that he received the decision at "the incorrect address" and was told by others if he answered the letter he would be deported. The applicant does not submit any additional evidence in support of the second motion.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states, in pertinent part:

Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

Furthermore, a motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

8 C.F.R. § 103.5(a)(4) states that 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 director's decision dismissing the appeal, dated February 28, 2003, clearly advised the applicant that any motion to reopen or reconsider must be properly 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 2, 2003. The first motion, however, was not received until August 25, 2003.

The applicant has failed to submit a timely motion.

In addition, the motions do not state new facts to be proved at the reopened proceeding, and are not supported by affidavits or other documentary evidence, in accordance with the regulatory requirements as provided at 8 C.F.R. § 103.5(a)(2). The applicant has not submitted any evidence on either motion to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). It also is noted that the record includes a number of documents that appear to have been altered. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Further, the record contains many generic store and money order receipts and generic bank and insurance documents that cannot be directly linked to the applicant. Additionally, it is noted that the applicant's Honduran passport indicates that it was issued in Honduras on January 15, 2001. The applicant did not explain how he obtained this document in Honduras after his stated date of entry into the United States. Therefore, the applicant also has not credibly established his continuous residence and continuous physical presence in the United States during the requisite periods, as required under 8 C.F.R. § 244.2(b) and (c).

For these reasons, the submissions do not meet the requirements of a motion to reopen, and the motions must be dismissed.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to him.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

**ORDER:** The motions are dismissed. The previous denial by the AAO director is affirmed.