



U.S. Citizenship
and Immigration
Services

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OFFICE: TEXAS SERVICE CENTER

Date: JUL 31 2006

IN RE: Applicant:

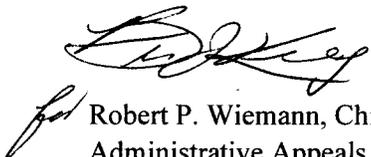
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APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 office that originally decided your case. Any further inquiry must be made to that office.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). A subsequent appeal was rejected by the Director (now Chief), Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The previous decision of the AAO will be affirmed and the motion to reopen will be dismissed.

The applicant claims to be 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 TSC Director denied the application because the applicant failed to establish he was eligible for late registration.

A subsequent appeal from the director's decision was rejected on November 17, 2004, after the Director of the AAO concluded that the appeal was untimely filed and that the applicant had failed to establish that he was eligible for TPS.

On motion to reopen, the applicant asserts that he has been living in the United States since 1997, and would like the opportunity to be legal in this country. He states that he did not apply during the initial registration period because he feared being deported. In support of the motion, the applicant submits: additional bills and receipts in his name dated between 2000 and 2004; generic bills and receipts dated in 1998, 1999, 2001, 2002, and 2003; and, an invoice in the name of "Marbin Flores."

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 November 17, 2004. 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 December 20, 2004. The motion to reopen, however, was not properly received until January 12, 2005. 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.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated November 17, 2004, is affirmed.