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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **SEP 06 2006**
[SRC 02 148 52931]

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.

Cindy M. Gomez
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 (now Chief), Administrative Appeals Office. The matter is now before the Administrative Appeals Office (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 director denied the application because the applicant failed to establish his eligibility for late initial registration.

The appeal from the director's decision was dismissed on March 12, 2003, after the Director of the AAO also concluded that the applicant had failed to establish his eligibility for TPS.

On motion to reopen, the applicant reasserts his claim of eligibility for TPS. He states that he entered the United States in 1997, and has sent evidence in his case. In support of the motion, the applicant submits a Citizenship and Immigration Services (CIS) receipt notice for this TPS application filed on April 15, 2002, and a CIS receipt notice dated March 12, 2004, relating to his request for an employment authorization document.

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, dated March 12, 2003, clearly advised the applicant that any motion to reopen must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before April 14, 2003. The motion to reopen, however, was not received until November 29, 2004.

Therefore, 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.

It is noted that the applicant presented a national identity document indicating that it was issued to him in Honduras on May 4, 1999; this directly contradicts his assertion that he has been in the United States since 1997.

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 March 12, 2003, is affirmed.