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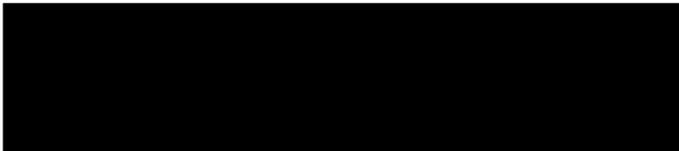
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
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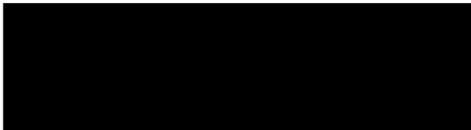


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 02 2007**
[WAC 05 207 74652]

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:



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, Texas Service Center (TSC). A subsequent re-registration application was denied by the Director, California Service Center (CSC). The appeal was dismissed by the Director, 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 is a native and 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 applicant filed Form I-821, Application for Temporary Protected Status on April 19, 2001 under receipt number SRC 01 189 67140. The TSC Director denied the application on July 16, 2003 after determining that the applicant had abandoned his application by failing to respond to a request to appear for fingerprinting. The CSC Director denied a subsequent re-registration application under receipt number WAC 05 207 74652, because the applicant's initial TPS application had been denied and the applicant was therefore not eligible to apply for re-registration under TPS.

The appeal from the CSC Director's decision was dismissed on July 3, 2006, after the Director of the AAO also concluded that the applicant had failed to establish his eligibility for TPS. On motion to reopen, counsel states the applicant's original I-821 was wrongly denied because, although he provided his new address to Citizenship and Immigration Services, it appears that a fingerprinting appointment was sent to an outdated address.

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 AAO decision was dated July 3, 2006. Any motion to reopen must be 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 August 7, 2006.. The motion to reopen was received on August 30, 2006.

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 because the motion to reopen was not filed within the required time period. Accordingly, the motion to reopen is dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed and the previous decision of the AAO dismissing the appeal is affirmed.