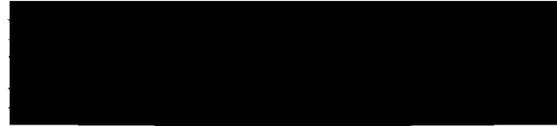




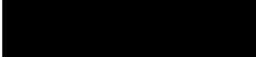
U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy.

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

**JAN 22 2008**

[WAC 05 152 79506]

[EAC 07 244 52817 - Motion]

INRE:

Applicant:



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.

*John D. Vaughan*  
for

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). An appeal from that decision was dismissed by the Chief, Administrative Appeals Office (AAO). The case is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant is 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 reveals that the applicant filed his first Form 1-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on June 25, 2003, more than three years and ten months after the initial registration period for Hondurans had ended (SRC 03 18853622 relates). On February 24, 2004, that application was denied due to abandonment because the applicant failed to respond to requests for evidence, dated September 9, 2003 and January 13, 2004, to establish his eligibility for late registration, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed his second Form 1-821 with the CSC on February 4, 2005 (WAC 05 152 79506), and indicated that he was re-registering for TPS. The CSC Director denied the application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS. The applicant filed an appeal from that decision on August 25, 2005. The appeal was dismissed by the AAO Chief on April 10, 2006. The applicant filed the current motion to reopen on August 20, 2007, and reasserts his claim of eligibility for TPS.

A motion to reopen or a motion to 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).

Since the underlying decision of the AAO was dated April 10, 2006, the applicant's motion should have been filed on or before May 15, 2006.<sup>1</sup> The motion to reopen was not filed until August 20, 2007, however, more than one year and three months later. Furthermore, the applicant has failed to provide any explanation for the delay in filing.

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

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<sup>1</sup> If the last day of the period for taking an action falls on a weekend or a holiday, the deadline is extended until the next working day. See 8 c.F.R. § 1.1(h).

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 decision of the AAO, dated April 10, 2006, is affirmed.