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U.S. Department of Homeland Security
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Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **MAR 25 2008**
[WAC 08 002 50638, motion]
[WAC99 211 50772 & WAC 05 064 74485]

INRE: 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn and the applicant's re-registration application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant stated 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. She was granted TPS on November 8, 2000. The director subsequently withdrew the applicant's status and **denied** the re-registration application on June 1, 2006, when it was determined that the applicant **had** been convicted of the possession of cocaine base for sale, a felony.

The appeal from the director's decision was dismissed on April 4, 2007, after the Chief of the AAO also concluded that the applicant **had** failed to establish her eligibility for TPS. On motion to reopen, the applicant reasserts her claim of eligibility for TPS.

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** April 4, 2007. 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 May 7, 2007. The motion to reopen was received on September 28, 2007.

In removal proceedings held on November 3, 1995, an Immigration Judge in Los Angeles, California, ordered the applicant deported "in absentia" to Honduras. It is further noted that the record contains an outstanding Form 1-205, Warrant of Deportation, issued by the District Director of the Los Angeles, California, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on April 3, 1996.

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.