



U.S. Citizenship  
and Immigration  
Services

PUBLIC COpy

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



ML

FILE: [REDACTED] OFFICE: Vermont Service Center DATE: **MAY 28**2008  
[WAC 05 096 81022]  
[EAC 07 049 50741, *motion*]

INRE: Applicant:

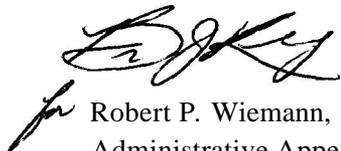


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 Vermont Service Center. Any further inquiry must be made to that office.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The TPS application was denied by the Director, California Service Center. A subsequent application was dismissed by the Chief, Administrative Appeals Office (AAO) on appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant claims to be 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 a TPS application on June 9, 2003, under Citizenship and Immigration Services (CIS) receipt number EAC 03 192 51063. The Director, Vermont Service Center, denied that application on September 26, 2003 because the applicant had failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods. A subsequent appeal of the director's decision was dismissed by the Director, now Chief, of the AAO on November 3, 2004, after he also concluded that the applicant was not eligible for TPS.

The applicant filed his current TPS application on January 4, 2005, under CIS receipt number WAC 05 096 81022, and indicated that he was re-registering for TPS. The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. On August 30, 2005, the applicant filed an appeal of the director's decision which was dismissed by the AAO on May 3, 2006. The applicant has now submitted a motion to reopen.

On motion, the applicant asks CIS to give him an opportunity to obtain an employment authorization card. He further states that he has evidence that he was in the United States "before and after February 13, 2001.",<sup>1</sup>

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 May 3, 2006. 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 June 5, 2006. The motion to reopen was received on October 13, 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 since 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.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated May 3, 2006, is affirmed.

---

<sup>1</sup> The applicant claims to be a citizen of Honduras. An applicant from Honduras must establish continuous residence in the United States from December 30, 1998, and continuous physical presence from January 5, 1999.