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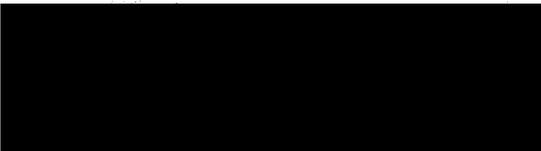
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

M1



FILE:



Office: TEXAS SERVICE CENTER

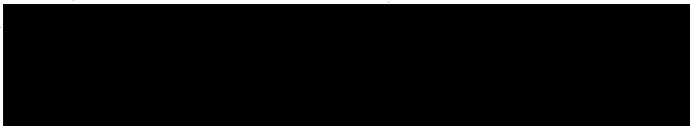
Date:

APR 11 2005

[SRC 02 197 54276]

IN RE:

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center on July 18, 2002. The applicant filed a timely appeal that was dismissed by the Administrative Appeals Office (AAO) on October 31, 2002. The applicant filed a motion to reopen on May 1, 2003, that is now before the AAO. The motion will be dismissed and the prior decision of the AAO director will be affirmed.

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, Texas Service Center, denied the application because the applicant failed to establish he was eligible for late registration. The AAO director dismissed the appeal, affirming the service center director's determination that the applicant had not established his eligibility for TPS benefits.

The applicant filed the motion to reopen on May 1, 2003, in response to the AAO director's decision. The applicant states that he has been living in the United States since the year 1996. The applicant asks that his case be reopened and that he be given the opportunity to be legal in this country and have the opportunity of better employment and the chance to pay taxes. The applicant states that he did not apply for TPS during the initial registration period due to his lack of employment and fear. The applicant does not submit any additional evidence in support of this motion.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states, in pertinent part:

Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

Furthermore, a motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

8 C.F.R. § 103.5(a)(4) states that a motion that does not meet applicable requirements shall be dismissed.

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 AAO director's decision dismissing the appeal, dated October 31, 2002, clearly advised the applicant that any motion to reopen or reconsider must be properly 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 December 3, 2002. The motion, however, was not properly received by the Texas Service Center until May 1, 2003.

The applicant has failed to submit a timely motion.

In addition, the motion does not state new facts to be proved at the reopened proceeding, and is not supported by affidavits or other documentary evidence, in accordance with the regulatory requirements as provided at

8 C.F.R. § 103.5(a)(2). The applicant has not submitted any evidence on motion to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

For these reasons, the submissions do not meet the requirements of a motion to reopen, and the motion must be dismissed.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

ORDER: The motion is dismissed. The previous denial by the AAO director is affirmed.