



U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUN 27 2007

[WAC 05 216 70530]

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, Chief  
Administrative Appeals Office

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

The applicant claims to be 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 CSC director denied the re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The applicant appealed the director's decision to the AAO on September 7, 2005. The AAO reviewed the record of proceeding and noted that the applicant's initial TPS application [SRC 01 229 58514] was denied by the Director, Texas Service Center, on February 11, 2002, after determining that the applicant had abandoned his application based on his failure to respond to a request dated July 28, 2001, to submit evidence to establish his nationality and identity, and that the applicant, on appeal, failed to overcome the director's findings. The AAO further noted that the applicant had failed to submit sufficient evidence: (1) to establish that the application [for re-registration] should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2); and (2) to establish his qualifying continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). The AAO, therefore, dismissed the appeal on June 5, 2006.

On September 1, 2006, the applicant filed a motion to reopen, and reasserts his claim of eligibility for TPS. He submits additional evidence in an attempt to establish his continuous residence and continuous physical presence in the United States.

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. 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 record in this case shows that the AAO issued a decision dated June 5, 2006. Coupled with three days for mailing, the motion, in this case, should have been filed on or before July 10, 2006. The motion was received at the Texas Service Center on September 1, 2006. The applicant neither addressed nor submitted any evidence to demonstrate that the delay was reasonable and was beyond his control.

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The motion is dismissed. The decision of the AAO dated June 5, 2006, is affirmed.