

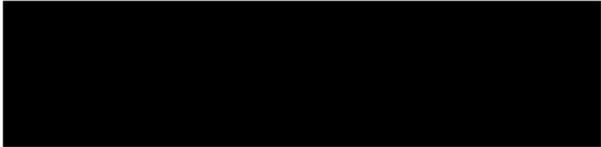


U.S. Citizenship
and Immigration
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FILE:



OFFICE: Vermont Service Center

DATE: MAR 09 2007

[EAC 02 269 52490]

[EAC 06 105 50250 - Motion]

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, Vermont Service Center. An appeal was dismissed by the Chief, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen or reconsider. The motion will be dismissed.

The applicant claims to be a 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 record indicates that the applicant filed an initial Form I-821, Application for Temporary Protected Status, on August 21, 2002. On July 24, 2003, the director denied the application on the grounds that the applicant failed to establish that she had resided in the United States continuously since February 13, 2001, and been physically present in the United States from March 9, 2001, to the date of filing, in accordance with the requirements of section 244(c)(1)(A)(i) and (ii) of the Act. The applicant filed an appeal (Form I-290B) from that decision which was dismissed by the Chief, AAO, on March 3, 2005.

On April 11, 2006, the applicant filed a new Form I-290B at the Vermont Service Center in regard to the initial TPS application, and submitted some additional evidence.¹ The service center, treating the filing as a motion to reopen or reconsider, transferred the matter to the AAO on July 18, 2006.

A motion to reopen or reconsider, like an appeal, must be filed within 30 days of the decision that the motion seeks to reopen or reconsider (33 days if the decision was served by mail). *See* 8 C.F.R. § 103.5(a)(1)(i). Since the AAO's decision dismissing the appeal on the applicant's initial TPS application was issued on March 3, 2005, the deadline for filing a timely motion to reopen or reconsider was April 5, 2005. The applicant's motion, however, was filed a full year later, on April 11, 2006.

Since it was not timely filed, the applicant's motion will be dismissed.

The AAO notes that the applicant filed another Form I-821 on March 11, 2005 [EAC 05 162 83337], which she identified as an application for re-registration or renewal of TPS. A handwritten notation in the "Action Block" of the application states that it was electronically denied by the service center on June 19, 2005.

An alien applying for Temporary Protected Status has the burden of proving that he or she meets the requirements discussed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet that burden.

ORDER: The motion is dismissed. The AAO's previous decision, dated March 3, 2005, is affirmed

¹ The CIS record of proceeding indicates that an earlier attempt to file this Form I-290B had been rejected by the service center on March 1, 2006, because of "incorrect or no fee."