



U.S. Citizenship  
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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: MAY 01 2007  
[SRC 03 184 55099]

IN RE: 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record shows that the applicant filed her first TPS application with Citizenship and Immigration Services (CIS), on June 18, 2003, after the initial registration period had closed. The director denied the application on September 30, 2003, because the applicant had failed to establish that she was eligible for late initial registration.

A subsequent appeal from the director's decision was dismissed on July 29, 2004, after the Director, AAO, also concluded that the applicant had failed to establish that she was eligible for late registration for TPS. The Director also determined that the applicant had provided insufficient evidence to establish her continuous residence and continuous physical presence during the required time periods. 8 C.F.R. § 244.2 (b) and (c).

The applicant then filed a motion to reopen reasserting her claim of eligibility for TPS. That motion to reopen was dismissed by the Director, AAO, on February 2, 2006, because it was untimely. The applicant then filed this second motion to reopen on February 24, 2006.

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 decision from the AAO was dated July 29, 2004. Any motion to reopen must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before August 31, 2004. This second motion to reopen, however, was not received until February 4, 2006. 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.

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

**ORDER:** The motion to reopen is dismissed and the previous decision of the AAO dismissing the appeal dated July 29, 2004, is affirmed.