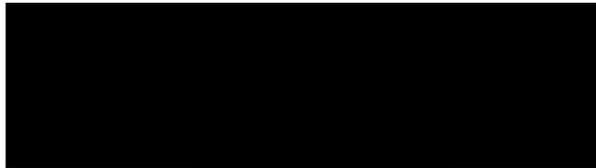




U.S. Citizenship
and Immigration
Services

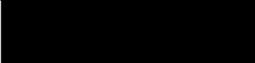
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



M1

FILE:



Office: Texas Service Center

Date:

SEP 28 2007

[SRC 03 226 53777]

[WAC 06 056 50080-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 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 (TSC). The applicant filed an appeal which was dismissed by the director, now Chief, of the Administrative Appeals Office (AAO). The applicant filed a motion to reopen which was dismissed by the AAO. The matter is now before the AAO on a subsequent motion to reopen. The motion to reopen will be dismissed.

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 TSC director denied the application on November 5, 2003, because the applicant failed to establish his eligibility for TPS late registration. The AAO dismissed an appeal from the decision of the TSC director on September 30, 2004. On October 6, 2004, the applicant filed a motion to reopen which was dismissed by the AAO on October 31, 2005. The applicant now submits a subsequent motion to reopen.

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).

Any motion must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before December 5, 2005. The motion was received by Citizenship and Immigration Services (CIS) on December 8, 2005. Further, the applicant not demonstrate that the delay in filing a motion was reasonable or beyond the control of the applicant.

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.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated October 31, 2005, is affirmed.