



U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: **MAR 11 2008**

[EAC 07 130 50365, motion]  
[EAC 01 267 51606]

INRE:

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

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (fPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed an initial Form 1-821, Application for Temporary Protected Status, under receipt number EAC 01 267 51606 during the initial registration period. The director denied **that** application on March 28, 2003, after finding **that** the applicant had not established **that** he had continuously resided in the United States since February 13, 2001 or that he had been continuously physically present in this country since March 9, 2001. An appeal from the director's decision was dismissed on April 27, 2004, after the Director (now Chief) of the AAO also concluded **that** the applicant had failed to establish his eligibility for TPS. On motion to reopen, the applicant reasserts his claim of **eligibility** for TPS.

Although a Form 0-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the organization listed is not authorized under the **regulations** at 8 C.F.R § 292.1 or 292.2 to represent the applicant. Therefore, she shall be considered as self-represented and the decision shall only be furnished to him.

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 AAO decision was dated April 27, 2004. Any motion to reopen must be 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 May 31, 2004. The motion to reopen was received on February 12, 2007.

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 because the motion to reopen was not filed within the required time period. Accordingly, the motion to reopen is dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated April 27, 2004 is affirmed.