



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: JAN 15 2014

Office: VERMONT SERVICE CENTER

IN RE: Applicant:

APPLICATION: Application for Temporary Protected Status under Section 244 of the  
Immigration and Nationality Act, 8 U.S.C. § 1254a

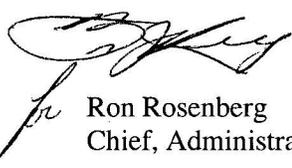
ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The applicant appealed the decision of the AAO. A motion, rather than an appeal, is the proper forum in this case pursuant to 8 C.F.R. § 103.5(a)(1)(i). The appeal, therefore, will be treated as a motion to reopen. The motion will be denied and the previous decision of the AAO will be affirmed.

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

On September 1, 2012, the director denied the application because the applicant failed to establish she was eligible for late registration. The director also denied the application because the applicant had failed to establish sufficient evidence to establish residence and physical presence in the United States from 2002 through 2004.

The AAO, in dismissing the appeal on August 28, 2013, concurred with the director's findings. The AAO conducted appellate review on a *de novo* basis and determined that the evidence submitted for April 2001 through January 2002 was also not sufficient to establish residence and physical presence.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) requires that a motion to reopen or reconsider a proceeding must be filed within 30 days of the underlying decision, and that a motion to reopen must be filed within 30 days except that failure to file a motion during this period may be excused when the applicant has demonstrated that the delay was reasonable and beyond the control of the applicant.

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. § 103.8(b).

Pursuant to 8 C.F.R. § 103.5(a)(4), a motion that does not meet applicable requirements shall be dismissed.

The AAO rendered its decision on August 28, 2013. This motion was received on October 1, 2013, 34 days after the date of the AAO's decision. The applicant has not demonstrated that the delay was reasonable and beyond her control. The motion is untimely.

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. Accordingly, the motion to reopen will be denied and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion is denied. The previous decision of the AAO dated August 28, 2013, is affirmed.