



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **JUL 02 2015**

FILE #: [REDACTED]
APPLICATION RECEIPT #: [REDACTED]

IN RE: Applicant: [REDACTED]

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

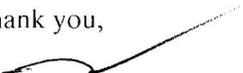
ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Center Director, Vermont Service Center, withdrew the applicant's Temporary Protected Status. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be denied.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a. On December 11, 2013, the acting center director withdrew TPS because the applicant had been convicted of two misdemeanors in the United States.

In dismissing the appeal on October 29, 2014, we concurred with the acting center director's findings. We determined that the closure of the applicant's criminal case subsequent to the completion of his probation neither alleviated the applicant of the convictions nor dismissed the convictions for immigration purposes.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) requires that a motion to reopen a proceeding must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file a motion during this period may be excused where it is demonstrated that a delay was reasonable and way beyond the control of the applicant. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

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).

We rendered our decision on October 29, 2014. A Form I-290B, Notice of Appeal or Motion, was received at the AAO on December 3, 2014. The Form I-290B was returned to the applicant on December 4, 2014 with instructions to where the Form I-290B must be filed. The Form I-290B was received at the Phoenix Lockbox on December 11, 2014, 43 days after the date of the our decision. The applicant has not asserted nor demonstrated that the delay in filing was reasonable and beyond his control. Accordingly, the motion to reopen is untimely filed.¹

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the motion to reopen will be denied and our previous decision will not be disturbed.

ORDER: The motion is denied. The previous decision of the AAO dated October 29, 2014, is affirmed.

¹ The motion would still have been rejected as untimely filed as of December 3, 2014, as it was received 35 days after the date our decision.