



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF R-C-

DATE: MAY 2, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM I-821, APPLICATION FOR TEMPORARY PROTECTED STATUS

The Applicant, a native and citizen of Haiti, seeks temporary protected status (TPS). *See* Immigration and Nationality Act (the Act) section 244, 8 U.S.C. § 1254a. Temporary protected status provides lawful status and protection from removal for foreign nationals, of specifically designated countries, who register during designated periods, satisfy country-specific continuous residence and physical presence requirements, are admissible to the United States, are not firmly resettled in another country, and are not subject to certain criminal- and security-related bars.

The Director, California Service Center, denied the application. On September 21, 2015, we dismissed the appeal.

On October 29, 2015, the Applicant filed the present motion to reopen and motion to reconsider.

We will deny the motion as untimely filed.

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.

We rendered our decision on September 21, 2015. The motion was received on October 29, 2015, 38 days after the date of our decision. The Applicant has not claimed that the delay was reasonable and beyond his control. Therefore, 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 was not filed within the allotted time period.

*Matter of R-C-*

**ORDER:** The motion to reopen is denied.

**FURTHER ORDER:** The motion to reconsider is denied.

Cite as *Matter of R-C-*, ID# 17114 (AAO May 2, 2016)