



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

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

MATTER OF R-A-P-

DATE: MAY 9, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Applicant, a native and citizen of El Salvador, 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, Vermont Service Center, denied the application. We dismissed the subsequent appeal and affirmed our decision on four subsequent motions. The matter is now before us on a motion to reconsider. The motion will be denied.

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. Failure to file a motion to reopen 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 August 6, 2015. The motion to reconsider was received on October 7, 2015, 62 days after the date of our decision.¹ Therefore, the motion is untimely.

The burden of proof in these proceedings rests solely with the applicant. *See* 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.

¹ The record reflects that the Form I-290B, Notice of Appeal or Motion, was initially rejected and returned to the Applicant. However, no evidence of the first attempted filing date was submitted.

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ORDER: The motion to reconsider is denied.

Cite as *Matter of R-A-P-*, ID# 16678 (AAO May 9, 2016)