

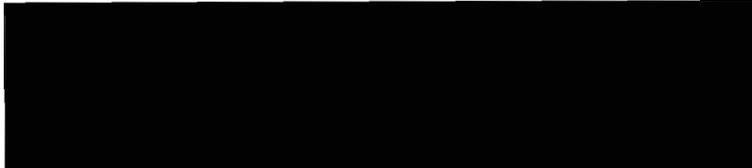
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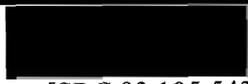
U.S. Citizenship
and Immigration
Services

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PUBLIC COPY



FILE:



[SRC 03 195 54304]

Office: Texas Service Center

Date:

MAY 21 2007

IN RE:

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). A subsequent appeal was rejected by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed, and the previous decision of the AAO will be affirmed.

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

The applicant filed an initial Form I-821, Application for Temporary Protected Status, on July 2, 2003, after the initial registration period had ended, under Citizenship and Immigration Services (CIS) receipt number SRC 03 195 54304. The TSC director denied the application on December 18, 2003, because the applicant failed to establish his eligibility for late registration. On January 22, 2004, the applicant filed an appeal from that decision. The appeal was rejected by the AAO as late on July 20, 2005.¹ The applicant filed the current motion to reopen that decision on August 24, 2005.

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 decision from the AAO, dated July 20, 2005, clearly advised the applicant that any motion to reopen must be filed within thirty days. Coupled with three days for mailing, the motion, in this case, should have been filed on or before August 22, 2005. The motion to reopen was received on August 24, 2005, and the applicant has not demonstrated that the delay was reasonable and beyond his control.

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 dismissed and the previous decision of the AAO will not be disturbed.

¹ It is noted that the evidence submitted on appeal would not have overcome the finding of the director, as the applicant failed to submit any evidence to establish that he had met any of the criteria for late registration as described in 8 C.F.R. 244.2(f)(2) and (g). It is also noted that the record contains documentation relating to the applicant's residence and physical presence in the United States that appears to have been altered. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

ORDER: The motion to reopen is dismissed. The previous decision of the AAO, dated July 20, 2005 is affirmed.