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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[SRC 03 167 53511]
[WAC 05 259 53153 - Motion]

Date: MAY 09 2007

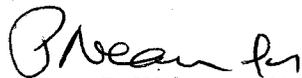
IN RE: Applicant: [REDACTED]

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 California Service Center. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a native 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 director denied the initial TPS application on September 30, 2003, because the applicant failed to establish she was eligible for late registration.

A subsequent appeal from the director's decision was dismissed on July 30, 2004, after the AAO also concluded that the applicant failed to establish her eligibility for late registration.

The applicant filed a motion to reopen on August 25, 2004, and reasserted her claim of eligibility for TPS. She also submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. The AAO dismissed the motion on September 2, 2005, because it failed to overcome the basis for the previous denial decision.

The applicant filed the current motion to reopen on September 23, 2005, and claims that she has been physically living in the United States since 1997.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant's motion to reopen consists of a statement from the applicant as well copies of various purchase and money transfer receipts. However, the primary basis for the denial of the application and the appeal was not a failure to establish qualifying residence and physical presence. Rather, the primary basis for these decisions was the applicant's failure to file his eligibility for late registration. The motion does not address applicant's eligibility for late registration. As such, the issue on which the underlying decision was based has not been overcome on motion.

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 applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated September 2, 2005, is affirmed.