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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

...with respect to
prevent clearly unwarranted
invasion of personal privacy

[REDACTED]

MI

JUL 01 2004

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

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

Robert P. Wiemann for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The applicant's first and second motion to reopen and reconsider also were dismissed by the AAO. The matter is now before the AAO on a third motion to reopen and reconsider. The motion will be dismissed.

The applicant is a native and citizen of Honduras who indicated on his application that he entered the United States on December 21, 1990, as a nonimmigrant visitor, with authorization to remain in the United States for six months. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant failed to establish he was eligible for late registration. Although the initial registration period was from January 5, 1999 to August 20, 1999, the applicant did not file his initial TPS application until August 15, 2000.

On appeal, the applicant stated that he had been in the United States for many years and that he was seeking to change his status. The applicant discussed the damage in Honduras from Hurricane Mitch and requested to remain in the United States to build a new life. The AAO dismissed the appeal determining that the applicant had not demonstrated that he was eligible for late registration.

On the first motion, the applicant provided a description of his life since arriving in the United States, and requested that he be given the opportunity to carry out a normal life in the United States. The AAO dismissed the motion finding that the applicant had not overcome the issue on which the underlying decision was based.

On the second motion, the AAO again dismissed the motion as the applicant had not presented any new facts in support of the motion.

On this third motion, the applicant again describes his life in the United States and states that he just wants an opportunity to live his life in the United States and to be able to visit his family in Honduras.

8 C.F.R. § 103.5(a) states, in pertinent part:

- (2) *Requirements for motion to reopen.* A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence.
- (3) *Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

The applicant again provides no new facts in support of the motion. The applicant's third motion again does not meet applicable requirements as outlined in 8 C.F.R. § 103.5(a). There are no other humanitarian waivers available under the provisions of TPS. Accordingly, the third motion will be dismissed, and the application must be denied.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not sustained that burden.

ORDER: The motion is dismissed.