



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **MAY 12 2006**  
[SRC 02 195 55613]  
[SRC 04 209 52103, *Motion*]

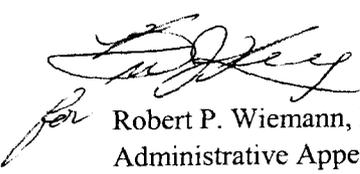
IN RE: Applicant: [REDACTED]

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.

  
for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center (TSC), for cause. The applicant filed an appeal. The TSC Director reviewed that untimely appeal, and determined that the appeal was rejected as untimely filed, and that it was dismissed as it did not meet the requirements of a motion to reopen or reconsider. The applicant subsequently filed a timely appeal (SRC 04 009 54600) to that decision. The Director of the Administrative Appeals Office (AAO) dismissed that appeal under separate cover. One month prior to the aforementioned appeal, the applicant had also filed another Form I-290B, Notice of Appeal, (SRC 03 233 54283), in relation to a decision dated "August 13, 2003," asking that her case be reopened. The TSC Director determined that the applicant was requesting reopening of the initial denial decision and that because the motion was filed more than 33 days after that denial decision, it was, therefore, dismissed as an untimely motion. The applicant now files a timely motion to reopen the TSC Director's latest denial decision. The matter is now before the AAO. With the motion, the applicant submits new evidence relating to her eligibility for late initial registration. Therefore, the motion will be granted; and the application will be denied for cause.

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 service center director initially denied the application because the applicant failed to establish she was eligible for late registration.

The TSC Director denied the application on July 23, 2002, because the applicant failed to establish her eligibility for late initial registration. On January 28, 2003, the applicant filed an appeal from the denial decision. The TSC Director reviewed this untimely appeal, and in a decision dated September 25, 2003, determined that the appeal was rejected as untimely filed, and that it was dismissed as it did not meet the requirements of a motion to reopen or reconsider. The applicant filed a timely appeal to the decision of the TSC Director that was dismissed by the AAO Director under separate cover.

On motion to reopen, the applicant reasserts her claim of eligibility for TPS and submits evidence in an attempt to establish her eligibility for late initial registration.

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 to reconsider must state the reason 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 ... [and] must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion, the applicant states that during the initial registration period, they had the economic means to file the TPS application only for her mother. The applicant submits photocopies of the Employment Authorization document (EAD) for [REDACTED] under Category A12, with validity from June 6, 2003 through January 5, 2005, and under Category C19 for the periods prior to those dates, beginning on November 4, 2000. The record contains a translation of a Honduran birth certificate, without a copy of the original upon which the translation is based, indicating the applicant's mother's name as [REDACTED]. Although the applicant submitted photo identification and a copy of the biographic page of her Honduran

passport to establish her nationality, the translation of a birth certificate does not establish that the applicant's mother is the same [REDACTED] whose EAD cards have been submitted.

In addition, the applicant's date of birth is given as April 24, 1979. During the initial registration period that for Hondurans ran through August 20, 1999, the applicant was a 20-year-old minor, and may have qualified for late initial registration under the provisions of 8 C.F.R. §244.2(f)(2)(iv), as the child of an alien currently eligible to be a TPS registrant. However, under the provisions of 8 C.F.R. § 244.2(g), the applicant must file for TPS within 60 days of the termination or expiration of the condition that made her eligible for late registration. The applicant turned 21 years of age in April of 2000; she did not, however, apply for TPS until June 7, 2002, well after the 60 days period. Therefore, the applicant has not established that she is eligible for late initial registration. As such, the issue on which the underlying decisions were based has not been overcome on motion, and the application must be denied for this reason.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence and continuous physical presence during the entirety of the requisite time period. The application must also be denied for these reasons.

The application will be denied for the above stated reasons with each considered as an independent and alternative basis for denial. The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here that burden has not been met.

**ORDER:** The motion was granted and application is denied for cause.