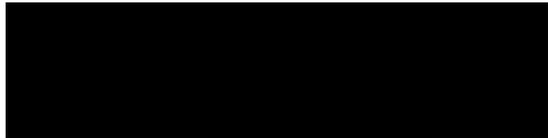




U.S. Citizenship  
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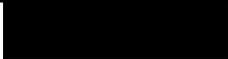
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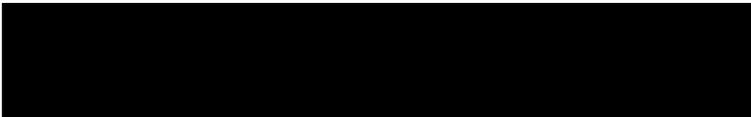
Office: TEXAS SERVICE CENTER

Date: SEP 26 2006

[SRC 02 211 55004]  
[SRC 05 102 51555, Motion]

IN RE:

Applicant:

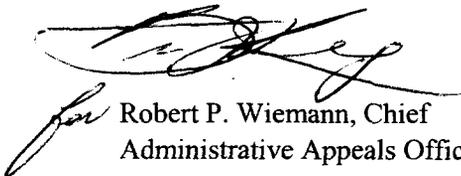


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Director (now Chief), Administrative Appeals Office (AAO). The applicant filed an untimely motion to reopen that was dismissed by the Director of the AAO. The matter is again now before the AAO on a motion to reopen. The previous decisions of the AAO will be affirmed and this 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 application because the applicant failed to establish that he was eligible for late initial registration. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on June 27, 2002.

A subsequent appeal from the director's decision was dismissed on August 18, 2003, after the Director of the AAO also concluded that the applicant had failed to establish that he was eligible for late registration.

The applicant filed a motion to reopen the AAO Director's decision. In support of that motion the applicant submitted additional documentation relating to his residence and physical presence in the United States consisting of documents in his name dated in 2002 and 2003, a Selective Service registration dated November 28, 2001, and generic receipts that cannot be linked to the applicant dated in 1999.

On February 1, 2005, the Director of the AAO dismissed the initial motion after determining that it was untimely filed and that the applicant had not established his eligibility for TPS.

On motion to reopen the AAO Director's decision, the applicant now reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his qualifying residence in the United States.

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).

The applicant's motion to reopen consists of documentation relating only to his claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the primary basis for the denial of the application and the appeal was the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period or to establish his eligibility for late registration. The motion does not address the applicant's eligibility for late registration. As such, the issue on

which the underlying decisions were based has not been overcome on motion. 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 decisions of the AAO will not be disturbed.

It is noted that the applicant's passport reflects that it was issued to him in Honduras on "03-09-99," and precludes a favorable finding as to his continuous residence and continuous physical presence in the United States during the entirety of the requisite periods.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The motion to reopen is dismissed. The previous decisions of the AAO dated August 18, 2003, and February 1, 2005, are affirmed.