

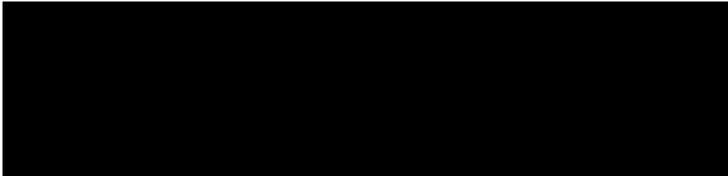


U.S. Citizenship
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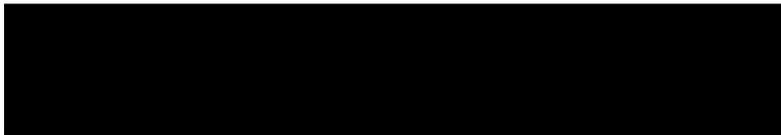
Office: California Service Center

Date: **APR 04 2007**

[WAC 05 112 71040 & WAC 06 203 50739]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed.

The applicant is stated to be a 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 record reveals that the applicant filed a late initial TPS application on April 19, 2004, under CIS receipt number SRC 04 139 54368. The director, Texas Service Center, denied the application, on June 3, 2004, because the applicant failed to establish his eligibility for late registration, and his qualifying continuous physical presence in the United States during the requisite time period. The record does not reflect that the applicant filed an appeal or a motion to reopen/reconsider that decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 20, 2005, under CIS receipt number WAC 05 112 71040, and indicated that he was filing a registration application for TPS. The Director, California Service Center, denied that application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

A subsequent appeal from the director's decision was dismissed on May 31, 2006, after the Director of the AAO also concluded that the applicant had failed to establish that he was eligible for re-registration. The AAO also noted that the applicant had failed to submit sufficient evidence to establish his nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1), and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods as described in 8 C.F.R. § 244.2(b) and (c). On motion to reopen, the applicant reasserts his claim of eligibility for TPS.

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 only of a statement that he would like her case reopened to give her an opportunity to be legal in this country as he has been in the United States since 1995. With the motion, in an attempt to establish his continuous residence and his continuous physical presence, the applicant submits photocopies of:

1. Eighteen money transfer receipts;
2. The biographic page of his Honduras passport; and,
3. Numerous generic receipts for merchandise and money orders.

There was no documentation relating to applicant's late initial registration. The primary basis for the denial of the application and the appeal was the applicant's failure to file his Application for Temporary Protected Status within the initial registration period or to establish his eligibility for late registration for TPS. The motion does not address the applicant's eligibility for late initial registration. As such, the issue on which the underlying decisions were based has not been addressed or overcome on motion.

It is noted that although the applicant has submitted evidence of his nationality and identity in the form of a biographic page of his Honduras passport, the applicant has not submitted sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the requisite period.

Also, it is noted that the applicant was previously ordered, in absentia, removed from the United States to Honduras by an immigration judge on December 5, 1995. The record also reveals that the applicant attempted to enter the United States on July 21, 1999, at or near McAllen, Texas, under the name [REDACTED]

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 May 31, 2006 is affirmed.