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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: APR 30 2007
[SRC 03 169 54388]

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

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. Subsequent appeals were dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The previous decisions 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 application on September 16, 2003, after determining that the applicant had failed to establish his eligibility for late initial registration.

A subsequent appeal from the director's decision was dismissed in November 2, 2004, after the Director of the AAO also concluded that the applicant had failed to establish that he was eligible for late registration. A subsequent motion to reopen from the AAO director's decision was denied on December 16, 2004. On January 27, 2005, the applicant submitted a second motion to reopen which was denied on March 17, 2005. On April 12, 2005, the applicant submitted another motion to reopen that was dismissed by the AAO director on April 3, 2006, who determined that in addition to the applicant being ineligible for late initial registration, he had also failed to establish that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999.

It is noted that on November 24, 2004, the applicant filed an application for re-registration under receipt number WAC 05 055 71304 that was denied by the Director, California Service Center (CSC) on July 23, 2005. On April 3, 2006, the AAO director dismissed an appeal to the CSC director's determination concerning his re-registration application.

On April 25, 2006, the applicant submitted this motion to reopen requesting reconsideration of his initial application.

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 a statement concerning his claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. The record does not support his claim. Additionally, one of the reasons for the denial of his application was his failure to file his application for TPS within the initial registration period or to establish his eligibility for late registration. This motion does not address the applicant's eligibility for late registration. As such, the issues on which the underlying decisions were based have 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 decisions of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decisions of the AAO dated November 2, 2004 and April 3, 2005, finding TPS should be denied are affirmed.