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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]  
[WAC 05 084 71300]

Office: CALIFORNIA SERVICE CENTER

Date: DEC 07 2007

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

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). A subsequent appeal and motion to reopen were dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a second motion to reopen. The second 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, on July 2, 2003, under receipt number SRC 03 195 53396 after the initial registration period had ended. The Director, Texas Service Center, denied the application on November 4, 2003, because the applicant had failed to establish that she was eligible for late initial registration. The applicant filed an appeal from the denial decision that was dismissed by the Chief, AAO, on July 5, 2005.

The applicant filed another Form I-821 under receipt number WAC 05 084 71300 on December 23, 2004, and indicated that she was re-registering for TPS. The CSC Director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and she was not eligible to apply for re-registration for TPS. The applicant filed an appeal from the denial decision and the Chief, AAO, dismissed it on June 26, 2006. The applicant filed a motion to reopen the director's July 23, 2005 determination. A subsequent motion was dismissed by the Chief, AAO, on March 5, 2007, who determined that in addition to the applicant being ineligible for late initial registration, she had also failed to establish that she had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999.

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 second motion does not address the applicant's eligibility for late initial registration, or prove the applicant's continuous residence or continuous physical presence during the required period. As such, the threshold 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 decision of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated March 5, 2007 dismissing the first motion to reopen is affirmed.