



U.S. Citizenship
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Services

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FILE:



[SRC 03 18653736]

Office: California Service Center

Date: FEB 28 2007

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.

Robert P. Wiemann, Director
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 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 record reveals that the applicant filed a late initial TPS application on June 20, 2003, under CIS receipt number SRC 03 186 53736. The director, Texas Service Center, denied that application on September 4, 2003, because the applicant failed to establish eligibility for late initial registration. The record reflects that a subsequent appeal to the AAO was dismissed on August 31, 2004. The AAO affirmed the decision of the director. The applicant filed a subsequent motion to reopen/reconsider the AAO's decision on October 19, 2004, and reasserted his eligibility for TPS. The AAO dismissed the motion to reopen, on October 3, 2005, as it was not filed within the required time period.

The applicant filed the current motion, on November 1, 2005, to reopen/reconsider the AAO's decision of October 3, 2005, and 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 his case reopened to give him an opportunity to be legal in this country. 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 are based has not been addressed or overcome on motion.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to him.

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 October 3, 2005, is affirmed.