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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED]
[EAC 02 151 53389]

Office: VERMONT SERVICE CENTER

Date: **MAR 01 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 office that originally decided your case. 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, Vermont 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 and the previous decision of the AAO will be affirmed.

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 after determining that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; and 2) had been continuously physically present in the United States since January 5, 1999.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on May 10, 2005.

On motion to reopen, the applicant reasserted his claim of eligibility for TPS. The applicant also submitted evidence in an attempt to establish his qualifying continuous residence and continuous physical presence 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). The applicant submits the following:

1. A letter from [REDACTED], Owner of B.M.F.S. Creations in Reston, Virginia.
2. Copies of statements from [REDACTED] and [REDACTED]

[REDACTED] states that that he employed the applicant from January 10, 2001, through February 10, 2001. However, this statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, [REDACTED] does not provide the address where the applicant resided during the period of his employment. It is further noted that the affiant did not indicate the applicant's duties of employment.

[REDACTED] states that he has known the applicant since he arrived in the United States in January 2001. According to [REDACTED] the applicant lived in his apartment from February 2001 to May 2001. [REDACTED] states that she has known the applicant since February 2001. However, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence.

The applicant's motion to reopen consists of a statement from the applicant and submission of evidence that does not establish continuous residence and continuous physical presence in the United States during the

qualifying period. As such, the issue on which the underlying decisions were based has 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 May 10, 2005, is affirmed.