

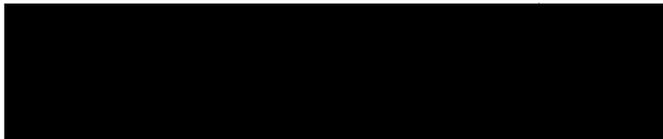


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**MAR 05 2007**

FILE: [REDACTED]  
[WAC 05 084 71300]

Office: CALIFORNIA SERVICE CENTER

Date:

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.

*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 Administrative Appeals Office (AAO). The matter is now before the AAO on motion to reopen. The motion will be dismissed.

The applicant is 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 her initial TPS application on July 2, 2003, under Citizenship and Immigration Services (CIS) CIS receipt number SRC 03 195 53396. The Director, Texas Service Center, denied that application on November 4, 2003, because the applicant failed to establish that she was eligible for filing her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. On November 28, 2003, the applicant filed an appeal from the denial decision. The Director (now Chief), AAO, dismissed that appeal on July 5, 2005.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 23, 2004, and indicated that she was re-registering for TPS.

The director denied the re-registration 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.

On August 3, 2005, the applicant filed an appeal from the denial decision.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on June 26, 2006.

On motion to reopen, the applicant states that she entered the United States in 1998 and has provided all of the requested evidence. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period.

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 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 from the applicant and submission of evidence provided in an attempt to 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.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence since December 30, 1998 and continuous physical presence from January 5, 1999 to the filing date of the TPS application. The applicant has not met the continuous residence and physical

presence criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application must be denied for these reasons as well.

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 June 26, 200, is affirmed.