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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[WAC 05 095 72810]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 05 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 California Service Center. Any further inquiry must be made to that office.

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 Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The previous decision of the AAO will be affirmed and the motion to reopen will be dismissed.

The applicant is stated to be 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, under receipt number SRC 02 115 53747 after the initial registration period had closed. The Director, Texas Service Center, denied that application on August 29, 2002, because the applicant had failed to respond to a request for evidence to establish her eligibility for late registration. On November 25, 2002, the applicant filed an appeal from the denial decision. The Chief, AAO, rejected the appeal on June 25, 2003.

The applicant filed a subsequent Form I-821 on January 3, 2005, and indicated that she was re-registering for TPS.

The CSC Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. A subsequent appeal was dismissed by the Chief, AAO, on March 2, 2007, who determined that the applicant had failed to establish she was eligible for re-registration or late initial registration. On motion to reopen, the applicant reasserts her claim of eligibility for TPS.

The applicant's motion to reopen consists of forwarding documentation relating to her claim of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. However, the primary basis for the denial of the application and the appeal was not a failure to establish qualifying residence and physical presence. Rather, the primary basis for these decisions was the applicant's failure to establish her eligibility for re-registration. The motion does not address the applicant's eligibility for re-registration. As such, the threshold 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 March 2, 2007 dismissing the appeal is affirmed.