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U.S. Citizenship
and Immigration
Services

ML

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 06 2007

IN RE:

Applicant:

[REDACTED]

APPLICATION:

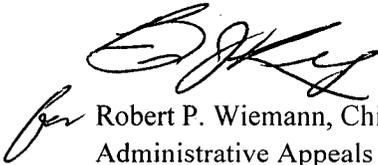
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


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 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 was eligible for late registration.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on May 24, 2007. The director, AAO also determined that the applicant failed to establish continuous residence and continuous physical presence in the United States during the qualifying period. In addition, the Director, AAO also found that, according to a Federal Bureau of Investigation (FBI) fingerprint results report, the Metro-Dade, Florida Police Department arrested the applicant on February 10, 1994 for "Obst by Disguise Person."

On motion to reopen, the applicant states that he has been in the United States since 1998 and has provided all of the requested evidence. However, the applicant has failed to submit any probative evidence in an attempt to establish his qualifying residence in the United States or his eligibility for late registration. The applicant did provide evidence that he had been convicted of a misdemeanor for the February 10, 1994 "Obst by Disguise Person" charge.

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 non-probative evidence. 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 24, 2007, is affirmed.