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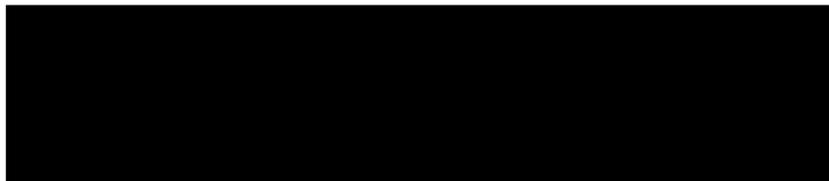
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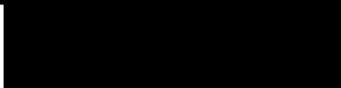
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FILE:



Office: California Service Center

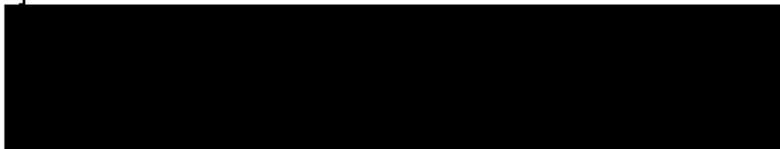
Date:

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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.

for  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). 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 motion 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 director denied the current application on May 25, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

An appeal from the director's decision was dismissed by the AAO on March 5, 2007, on the grounds that the applicant was not eligible to re-register for TPS and failed to show that the application should be accepted as a late initial registration.

On motion to reopen, filed on April 2, 2007, the applicant asserts that she has lived in the United States since 1998, and that she has answered all the requests from Citizenship and Immigration Services (CIS). The applicant also submits some additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;

- (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
  - (iii) The applicant is a parolee or has a pending request for reparole; or
  - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

Honduran nationals applying for TPS must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The record shows that the applicant filed her initial application for TPS on July 3, 2003, under CIS receipt number SRC 03 194 53817, after the initial registration period had closed. That application was denied by the Director of the Texas Service Center (TSC) on March 24, 2004. The TSC director denied the application because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States. On April 22, 2004, the applicant filed an appeal, which was dismissed by the AAO on July 5, 2005. The AAO determined that the applicant had not established her qualifying continuous residence and continuous physical presence in the United States, or her eligibility for TPS late registration.

The applicant filed the current TPS application with CIS on January 25, 2005, likewise after the initial registration period had closed, and identified it as a re-registration application. On May 25, 2006, the CSC director denied the application on the ground that the initial application had been denied, making the applicant ineligible to re-register for TPS. The applicant filed an appeal, which the AAO dismissed on March 5, 2007. The AAO affirmed the CSC director's decision that the applicant was not eligible for TPS re-registration, since she was not a current TPS registrant, and also determined that the application could not be approved as a late

initial application because the applicant had not established her eligibility for late initial registration under one of the conditions enumerated in 8 C.F.R. § 244.2(f)(2).

The applicant filed a motion to reopen on April 2, 2007, stating that she has been in the United States since 1998, and that she has answered all requests from CIS. Along with her motion, the applicant provides documentation relating to her claim of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. The applicant has not submitted any evidence, however, to establish that she meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

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 does not meet applicable requirements since no new facts and documents have been submitted to establish her eligibility for late initial registration, on which her eligibility for re-registration hinges. As the applicant has not addressed the issue of her late filing for TPS on July 3, 2003 – nearly four years after the initial registration period for Honduran nationals closed on August 20, 1999 – the motion to reopen must be dismissed.

It is noted that the applicant was ordered removed in absentia on December 8, 2000, by an Immigration Judge in Harlingen, Texas. The record of proceedings contains the Warrant of Removal issued on December 8, 2000, which is still outstanding.

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 5, 2007, is affirmed.