

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



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

PUBLIC COPY

M1



FILE:



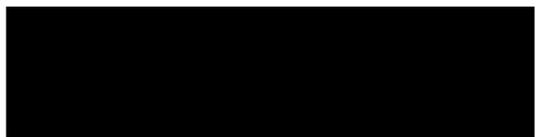
Office: CALIFORNIA SERVICE CENTER

Date: NOV 16 2007

[WAC 05 148 70786]

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 initial TPS application was denied by the Director, Texas Service Center. A subsequent application for re-registration was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (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, Texas Service Center, denied the initial application on February 12, 2004, because the applicant failed to establish that she was eligible for late registration. A subsequent appeal from the director's decision was dismissed on January 24, 2005, after the Chief, AAO, also concluded that the applicant had failed to establish that she was eligible for late registration.

The applicant filed an application on February 25, 2005, and indicated that she was re-registering for TPS. The Director, California Service Center, 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. The applicant filed an appeal. The Chief, AAO, dismissed the appeal on May 30, 2006, also stating that the applicant was not eligible to apply for re-registration because her initial TPS application had been denied. The applicant appealed the AAO decision on June 26, 2006. The Director, California Service Center, rejected the applicant's appeal as improperly filed.

The applicant filed a Motion to Reopen on October 4, 2006, and reasserts her claim of eligibility for TPS, and submits evidence in an attempt to establish her qualifying residence 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).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy ... [and] must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

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 documentation relating to her claim of residence since December 30, 1998, and 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 applicant's eligibility for re-registration. As such, the issue on which the underlying decisions were based has not been addressed or 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 January 24, 2005, is affirmed.