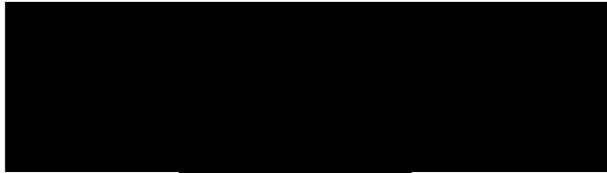


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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **SEP 17 2007**  
[WAC 05 239 71030]  
[WAC 07 078 50136, motion]

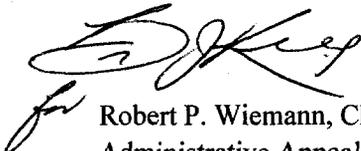
IN RE: Applicant: [REDACTED]

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 had been continuously physically present in the United States since January 5, 1999.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on December 29, 2006.

On appeal, 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.

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.

It is noted that the record indicates that the applicant was apprehended by the U.S. Border Patrol on or about December 21, 2004 near Hidalgo, Texas while the applicant attempted to enter the United States illegally. However, this is contrary to his declaration in his TPS application that he entered the United States on February 14, 1997. It is also noted that the applicant was ordered deported to Honduras on June 28, 2006.

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 December 29, 2006, is affirmed.