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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

KA



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 22 2008**
[WAC 05 148 70065]
[EAC 08 162 51068, 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 untimely appeal was rejected by the Director, Administrative Appeals Office (AAO). The applicant filed two subsequent motions to reopen that were subsequently dismissed by the AAO. The matter is again before the AAO on another motion to reopen. The previous decision of the AAO will be affirmed, and 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 application after determining that the applicant failed to establish he was eligible for late registration.

Upon review of the record of proceeding, the AAO determined that the appeal was filed untimely and rejected it on January 30, 2007.

On the initial motion to reopen, the applicant reasserted his claim of eligibility for TPS but failed to submit any substantive evidence in an attempt to establish his qualifying residence in the United States or his eligibility for late registration. The AAO dismissed the motion on November 8, 2007.

A subsequent motion was filed by the applicant. The AAO also dismissed this motion on March 25, 2008.

In the current motion to reopen, the applicant states that he has been in the United States since 1997 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish his qualifying residence.

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 is affirmed.