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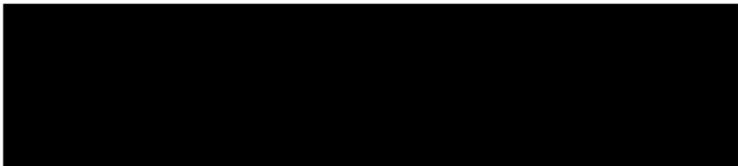
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: TEXAS SERVICE CENTER DATE: FEB 20 2008
[SRC 02 211 55004]
[EAC 07 258 51557-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 Texas Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). Three motions to reopen were filed that have been subsequently dismissed by the AAO. The matter is now before the AAO on a motion to reopen and motion to reconsider. The previous decisions of the AAO will be affirmed and the motion will be dismissed.

The applicant claims to be a 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 because the applicant failed to establish he was eligible for late registration.

The AAO, in dismissing the appeal on August 18, 2003, concurred with the director's findings that the applicant had failed to establish he was eligible for late registration. The initial motion to reopen was dismissed by the AAO on February 1, 2005, pursuant to 8 C.F.R. § 103.5(a)(1)(i) as the motion was untimely filed. The second and third motions to reopen were dismissed by the AAO on September 26, 2006, and August 15, 2007, as the issue on which the underlying decision was based had not been addressed or overcome on either motion.

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).

On motion, the applicant once again reasserts his claim of eligibility for TPS and requests that his application be reconsidered. The applicant submits additional evidence in an attempt to establish his continuous residence and physical presence in the United States during the requisite periods.

However, the primary basis for the denial of the application and the dismissal of 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 file his Application for Temporary Protected Status within the initial registration period or to establish his eligibility for late registration. Once again, the motion does not address applicant's eligibility for late 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 will be dismissed and the previous decisions of the AAO will not be disturbed.

ORDER: The motion is dismissed. The previous decisions of the AAO are affirmed.