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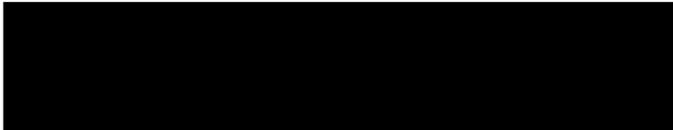
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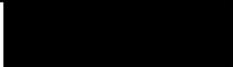
U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: FEB 29 2008

[WAC 05 062 75267]

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center (CSC) denied the application. The Chief, now Director, Administrative Appeals Office (AAO) dismissed a subsequent appeal. The AAO also dismissed two subsequent motions to reopen. The matter is now before the AAO on a third motion to reopen. The previous decision of the AAO will be affirmed and the current motion to reopen 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 record reflects that on May 28, 2002, the applicant filed his initial TPS application (SRC 02 186 53021) with the director, Texas Service Center (TSC) – almost three years after the close of the initial registration period for Hondurans. On September 12, 2002, the director, TSC denied the application due to abandonment. On October 7, 2002, the applicant filed an appeal. On February 27, 2003, the AAO rejected the appeal. On May 1, 2003, and February 18, 2005, the applicant filed motions to reopen. The director, TSC, denied both motions.

On December 1, 2004, the applicant filed the current re-registration application (WAC 05 062 75267). On May 11, 2005, the director, CSC, denied the application because the applicant had not been previously granted TPS and was, therefore, not eligible to reregister. On February 28, 2006, the AAO affirmed the director's decision and dismissed the appeal. On March 27, 2006, the applicant filed a motion to reopen. On March 29, 2007, the AAO dismissed the motion, concluding that the applicant had not overcome the underlying decision. In addition, the AAO found that the applicant failed to establish his qualifying continuous residence and continuous physical presence. The applicant filed a second motion, which the AAO dismissed on September 10, 2007. The AAO affirmed the previous decisions and also found that the applicant had failed to establish his Honduran citizenship.

On motion, the applicant reasserts his claim of eligibility for TPS and submits additional documentation.

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 third motion to reopen consists of documentation relating to his claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the basis for the denial of the application and the appeal was not solely for a failure to establish qualifying residence and physical presence. Rather, the primary basis for these decisions was the applicant's failure to establish his eligibility for re-registration. The motion does not address applicant's eligibility for re-registration. In addition, the applicant has neither presented new facts, supported by affidavits or evidence, nor has he asserted that the previous decisions were based on incorrect application of law or CIS policy. 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 September 10, 2007, is affirmed.