



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED] Office: California Service Center  
[incorporating [REDACTED]  
[SRC 03 149 51631 & SRC 02 220 54670, motion]

Date: JAN 09 2008

IN RE: Applicant: [REDACTED]

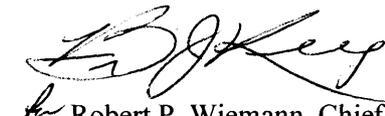
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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 application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). A subsequent motion to reopen was dismissed by the AAO. The matter is now before the AAO on a motion to reopen. The motion to reopen 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 record reveals that the applicant filed a late initial TPS application on June 21, 2002, under CIS receipt number SRC 02 207 54676. The Director, Texas Service Center, denied the application, on September 13, 2002, because the applicant failed to establish that he was eligible for late initial registration.

A subsequent appeal from the director's decision was dismissed by the Director (now Chief) of the AAO, on February 27, 2003. The AAO affirmed the director's denial noting that the applicant had failed to establish eligibility for late initial registration for TPS. A subsequent late motion to reopen the AAO dismissal, filed under CIS receipt number SRC 03 149 51652, was dismissed by the Director of the AAO on February 2, 2006. The applicant filed this motion to reopen/reconsider.

The Director of the AAO noted that the primary basis for the denial of the application and the appeal 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 for TPS. As the motion did not address the applicant's eligibility for late initial registration, the issue on which the underlying decisions were based had not been addressed or overcome on motion, the Director of the AAO dismissed the motion.

The applicant filed this second motion to reopen the AAO dismissal of February 27, 2003, under CIS receipt number SRC 03 149 51631.

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 only of a statement that he would like his case reopened to give him an opportunity to be legal in this country as he has been in the United States since 1998.

However, there is no documentation relating to applicant's late initial registration. It is noted that the applicant failed to submit sufficient evidence to establish that he was eligible for late initial registration, under 8 C.F.R. § 244.2(f)(2). The primary basis for the denial of the application and the appeal 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 for TPS. The motion does not address the applicant's eligibility for late initial 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 February 27, 2003, is affirmed.