

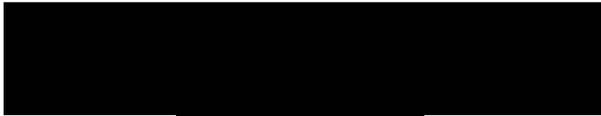
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

### PlmLICCOPY



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FILE:



Office: VERMONT SERVICE CENTER

Date: JAN 22 2008

[SRC 03 200 55233]

[EAC 07 184 51205 -- Motion]

INRE:

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 Vermont Service Center. 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, Texas Service Center (TSC). An appeal from that decision was dismissed by the Director, now Chief, Administrative Appeals Office (AAO). A motion to reopen was subsequently dismissed by the Chief, AAO. The matter is now before the AAO on a second motion to reopen. The previous decisions will be affirmed and 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 applicant filed her first Form 1-821, Application for Temporary Protected Status, (SRC 0320055233), with the Texas Service Center (TSC) on July 8, 2003, almost four years after the initial registration period for Hondurans had ended. On November 4, 2003, that application was denied by the TSC director because the applicant failed to establish her eligibility for late registration. An appeal (SRC 04 047 50128) from that decision was dismissed by the AAO on September 13, 2004. The applicant filed an untimely motion to reopen (SRC 05 01951000) on November 10, 2004. The AAO dismissed the motion on April 13, 2007.<sup>1</sup>

The applicant filed the current motion to reopen (EAC 0718451205) on May 3, 2007. On motion, the applicant reasserts her claim of eligibility for TPS. She states that she entered the United States in 1998, and would like the opportunity to be legal in the United States. No additional evidence has been provided by the applicant in support of the 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).

The applicant's motion consists of statements relating to her claim of qualifying continuous residence in the United States since December 30, 1998, and continuous physical presence since January 5, 1999. However, the primary basis for the denial of the application and 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 her Application for Temporary Protected Status within the initial registration period or to establish her eligibility for late registration. The motion does not address the applicant's eligibility for late registration. As such, the issue on which the underlying decisions were based has not been overcome on motion.

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<sup>1</sup> It is noted that the applicant filed a second Form 1-821 (WAC 05 224 50840) with the California Service Center (CSC) on December 24, 2004, and indicated that she was re-registering for TPS. The director of the CSC denied the application on July 23, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS. An appeal (WAC 05 224 50840) from that decision was also dismissed by the AAO on April 13, 2007.

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 decisions of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decisions of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed. The previous decisions of the AAO dated September 13, 2004, and April 13, 2007 (on the initial motion), are affirmed.