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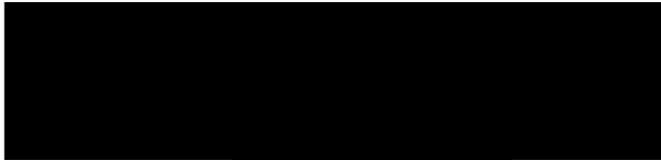
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

OFFICE: CALIFORNIA SERVICE CENTER

DATE: JAN 29 2008

[WAC 05 141 76417]
[EAC 08 006 54844-motion]

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 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 Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The previous decision of the AAO will be affirmed and the 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 reveals that the applicant filed a TPS application subsequent to the initial registration period under Citizenship and Immigration Services receipt number SRC 0320055770. The Director, Texas Service Center, denied that application on January 6, 2004, due to abandonment. As the application was denied due to abandonment there was no appeal rights; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed her current TPS application on February 18, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant's appeal from the denial of this application was dismissed on August 24, 2007, as the AAO concurred with the director's findings. The AAO also determined that the applicant had failed to establish her nationality, her qualifying continuous residence and her physical presence in the United States during the requisite periods.

On motion to reopen, the applicant reasserts her of eligibility for TPS.

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 submits a copy of her Honduran passport and documentation in an attempt to establish her residence and physical presence. It is noted that the documentation submitted only serves to establish the applicant's residence and physical presence in the United States since 2004. The motion does not address applicant's ineligibility to file for re-registration because her initial TPS application has been denied. As such, the primary issue on which the denial of the application and the dismissal of the appeal 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 August 24, 2007, is affirmed.