

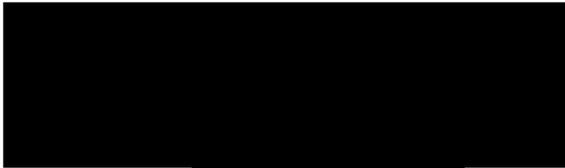


U.S. Citizenship
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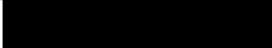
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JAN 29 2008

[WAC 05 054 73060]

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.

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, California Service Center (CSC). A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). A following motion to reopen was denied by the Chief, AAO. An appeal to the AAO decision was rejected by the CSC Director. The matter is now before the AAO on appeal. The appeal will be dismissed.

The applicant claims to be 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 an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 03 194 52738 after the initial registration period had closed. The Director, Texas Service Center, denied that application on November 7, 2003, after determining that the applicant had abandoned his application by failing to respond to a request for evidence. The applicant filed another Form I-821 under receipt number WAC 05 054 73060. The CSC Director denied the re-registration application on June 20, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. A subsequent appeal was dismissed by the Chief, AAO, on February 27, 2006, and a following motion to reopen was denied by the Chief, AAO on December 5, 2006. An appeal to that motion was rejected by the CSC Director on February 16, 2007.

On this motion to reopen, the applicant reasserts his claim 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).

The applicant's motion to reopen consists of documentation relating to his claim of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. However, the primary basis for the Chief, AAO's December 5, 2006 denial was that the motion did not address the primary issue which was the applicant's eligibility for late registration. This motion does not address that issue. As such, the threshold issue on which the underlying decision(s) that is being appealed was based has not been overcome on this March 7, 2007 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 decisions of the AAO will not be disturbed.

ORDER: The March 7, 2007 motion to reopen is dismissed and the previous decisions of the AAO dismissing the appeal are affirmed.