

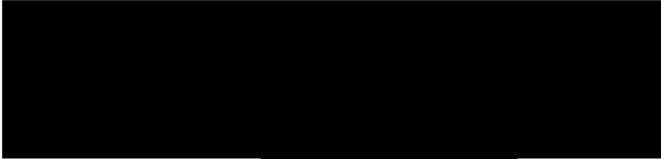


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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 07 2008  
[EAC 08 087 52078, motion)  
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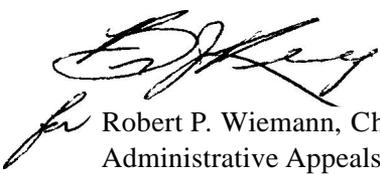
INRE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: 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.

  
for 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 **Chief, Administrative Appeals Office** (AAO). The matter is now before the AAO on a third motion to reopen. The motion will be dismissed.

The applicant is a native and citizen of Nicaragua who is seeking Temporary Protected **Status** (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.c. § 1254.

The director denied the application because the applicant failed to establish he was eligible for late initial **registration**.

A subsequent appeal from the director's decision was dismissed on September 29, 2006, after the AAO Chief also concluded that the applicant had failed to establish eligibility for TPS. Motions to reopen were dismissed on August 1, 2007 and on December 31, 2007. On this motion, the applicant reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his continuous residence and continuous physical presence in the United States.

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 does not address the applicant's eligibility for late initial registration. As such, the threshold issue on which the underlying decisions were based has not been 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 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 dismissing the appeal are affirmed.