



**U.S. Citizenship  
and Immigration  
Services**

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **JUL 08 2008**

[EAC 08 091 51823, motion]

[WAC 0506871457]

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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 motion to reopen. The motion 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 a TPS application on May 29, 2002, under receipt number SRC 02 18652860. The Director, Texas Service Center (TSC), denied the application on August 13, 2002, because the applicant had **failed** to establish he was eligible for late registration. A subsequent appeal and motion to reopen were dismissed by the Director (now Chief) of the AAO and a motion to reopen was denied by the TSC Director.

The applicant filed a subsequent Form I-821, Application for TPS, on December 2, 2004, and indicated that he was re-registering for TPS. The CSC Director denied the re-registration because the applicant's initial TPS application had been denied and he was not eligible to apply for re-registration for TPS. A subsequent appeal from the CSC Director's decision was dismissed on **January** 16, 2008, after the AAO Chief also concluded that the applicant had **failed** to establish eligibility for TPS. 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 motion does not address the applicant's eligibility to file for re-registration or prove his eligibility for late initial registration. As such, the threshold issues on which the underlying decisions were based have 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 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 motion to reopen is dismissed. The previous decisions of the AAO dismissing the appeal are affirmed.