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FILE: [REDACTED] OFFICES: Texas Service Center DATE: **JUL 22 2008**  
[SRC 03 200 55233]  
[EAC 08 098 51908, motion]

IN RE: 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 Texas Service Center. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center (TSC). A subsequent appeal was dismissed by the Director, now Chief, 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 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 record reveals that the applicant filed an initial TPS application on July 8, 2003, under Citizenship and Immigration Services (CIS) receipt number SRC 03 200 55233. The TSC director denied that application on November 4, 2003, because the applicant failed to establish that she was eligible for late registration. A subsequent appeal from the director's decision was dismissed by the Chief of the AAO on September 13, 2004, after he concluded that the applicant had failed to establish her eligibility for TPS. On November 10, 2004, the applicant submitted a motion to reopen which was dismissed by the Chief of the AAO on April 13, 2007<sup>1</sup>, because the motion was untimely filed. On May 3, 2007, the applicant submitted a second motion to reopen which was dismissed by the AAO on January 22, 2008. The applicant has now submitted a third motion to reopen.

On motion, the applicant asks CIS to reopen and reconsider her TPS application and grant her the opportunity to work legally in the United States. She further states that she has been in the United States since 1998 and that she has provided all of the requested evidence. The applicant submits additional documentation in support of her claim.

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 copies of the same documentation previously submitted relating to her claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, 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 addressed or overcome on motion.

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<sup>1</sup> It is noted that the applicant filed a second Form I-821, Application for Temporary Protected Status, on December 24, 2004, under CIS receipt number WAC 05 224 50840, and indicated that she was re-registering for TPS. The Director, California Service Center denied the re-registration 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 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 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 is affirmed.