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U.S. Citizenship  
and Immigration  
Services

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**JUL 22 2008**

FILE:



Office: VERMONT SERVICE CENTER

Date:

[EAC 06 255 82438]  
[EAC 08 140 53534 – 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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The applicant filed a motion to reopen that was subsequently dismissed by the AAO. The matter is again before the AAO on a second motion to reopen. The previous decision of the AAO will be affirmed, and the motion will be dismissed.

The applicant is 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 director denied the application after determining that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on October 19, 2007.

On the initial motion to reopen, the applicant stated that he has resided in the United States since 1997 and has provided all of the requested evidence. The applicant failed to submit any probative evidence in an attempt to establish his qualifying residence in the United States or his eligibility for late registration. The AAO dismissed this motion on March 25, 2008.

On a subsequent motion to reopen, the applicant again stated that he has resided in the United States since 1997 and has provided all of the requested evidence. The applicant also once again failed to submit any probative evidence in an attempt to establish his qualifying residence in the United States or his eligibility for late registration.

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 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 a statement from the applicant and submission of non-probative evidence previously provided. As such, the 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 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.