



U.S. Citizenship
and Immigration
Services

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

PUBLIC COPY

MI

FILE:

Office: VERMONT SERVICE CENTER

Date: **JUL 22 2008**

[SRC 04 103 53922]

[EAC 07 245 51995, 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. Wienmann, 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 dismissed by the AAO. The applicant filed a second motion to reopen that was also subsequently dismissed by the AAO. The matter is now before the AAO on another motion to reopen. The motion to reopen will be dismissed and the previous decision of the AAO will be affirmed.

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 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 August 29, 2005.

On motion to reopen filed on November 7, 2005, the applicant stated that he has been in the United States since 1997 and has provided all of the requested evidence. The applicant also reasserted his claim of eligibility for TPS but 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 the motion on December 28, 2006.

On motion to reopen filed on January 30, 2007, the applicant again stated that he has been in the United States since 1997 and has provided all of the requested evidence. The applicant also once again reasserted his claim of eligibility for TPS but 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 the motion on July 27, 2007.

On motion to reopen, the applicant once more stated that he has been in the United States since 1997 and has provided all of the requested evidence. In addition, the applicant again reasserted his claim of eligibility for TPS but 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 dated July 27, 2007, is affirmed.