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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



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

PUBLIC Copy



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: *JUH'' 2008*

[EAC 08 119 50800, *motion*]
[WAC 05 098 76803]

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 Vermont 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 (CSC). A subsequent appeal and motion to reopen were dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a second motion to reopen. The second 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 V.S.C. § 1254.

The applicant filed an initial Form 1-821, Application for Temporary Protected Status, on July 8, 2002, under receipt number SRC 02 234 54565 after the initial registration period had ended. The Director, Texas Service Center (TSC), denied the application on March 19, 2003, after determining that the applicant had abandoned his application by failing to respond to a Notice of Intent to Deny. Two subsequent motions to reopen was denied by the TSC Director because the applicant had failed to establish that he was eligible for late initial registration.

The applicant filed another Form 1-821 under receipt number WAC 05 098 76803, and indicated that he was re-registering for TPS. The CSC Director denied the re-registration application on August 15, 2005, because the applicant's initial TPS application had been denied and he was not eligible to apply for re-registration for TPS. The applicant filed an appeal from the denial decision and the Chief, AAO, dismissed it on January 31, 2007, who affirmed the CSC Director's determination and determined that in addition, the applicant was ineligible for late initial registration. Subsequent motions were dismissed by the Chief, AAO, on August 27, 2007 and February 19, 2008.

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 current motion does not address the applicant's eligibility for re-registration or for late initial registration. As such, the threshold issue 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 V.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 February 19, 2008 dismissing the first motion to reopen is affirmed.