



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

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FILE:

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OFFICE: CALIFORNIA SERVICE CENTER

DATE **JUN 30 2008**

[WAC 05 299 70153]

[EAC 08 093 52536, Motion]

INRE:

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. A subsequent appeal and motion to reopen and reconsider was dismissed by the Director, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a second motion to reopen and reconsider. The previous decision of the AAO will be affirmed and the motion to reopen will be dismissed.

The applicant claims to be 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 because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite period.

A subsequent appeal from the director's decision was dismissed on July 27, 2007, after the Chief of the AAO also concluded that the applicant had failed to establish that she was eligible for late registration. The AAO also found that the applicant failed to establish continuous residence and continuous physical presence during the qualifying periods. On August 22, 2007, the record reflects that the applicant filed a motion to reopen and reconsider the AAO's decision. The AAO affirmed its previous decision of August 27, 2007 and dismissed the applicant's motion on January 16, 2008. The applicant filed this current motion on February 12, 2008.

On motion to reopen, the applicant reasserts her claim of eligibility for TPS.

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 essentially of documentation relating to her claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. The applicant did not submit evidence to address the issue of her failure to file her Application for Temporary Protected Status within the initial registration period or to establish her eligibility for late registration.

The evidence submitted by the applicant in support of this motion consists of copies of retail receipts from various retail stores, and bank deposit slips. None of these documents bear the name or address of the applicant, cannot be related to the applicant in any way, and therefore are not of any probative value of the applicant's presence and continuous residence in the United States during the qualifying period. As such, the issues on which the underlying decisions were based has not been addressed or 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.