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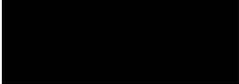


**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: California Service Center

Date:

MAR 03 2008

[WAC 05 049 72424]
[EAC 07 177 53065, *motion*]

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 California 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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. 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 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 a late initial TPS application on February 28, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 02 115 54420. The Director, Texas Service Center, denied that application on October 11, 2002, after determining that the applicant had abandoned his application for failing to respond to a Notice of Intent to Deny. A subsequent appeal was rejected by the Director (now Chief), AAO, on May 9, 2003, and an untimely motion to reopen that determination was dismissed by the Chief AAO.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on November 15, 2004, under CIS receipt number WAC 05 049 72424, and indicated that he was re-registering for TPS. The Director, California Service Center, denied that application on July 10, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The record reflects that a subsequent appeal to the Administrative Appeals Office (AAO) was dismissed by the AAO Chief on May 11, 2007. The AAO Chief noted that there was no evidence of record to establish eligibility for late initial registration for TPS, continuous residence and continuous physical presence in the United States, and evidence to establish nationality. The applicant filed this motion to reopen/reconsider the AAO's decision, on June 6, 2007.

Pursuant to 8 C.F.R. § 103.5(a)(ii), jurisdiction to consider a motion to reopen/reconsider lies with the official who made the latest decision in the proceeding, which in this case is the AAO. The AAO will therefore, consider the applicant's motion to reopen and reconsider.

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 a statement that he would like his case reopened to give him an opportunity to be legal in this country. In support of the motion, in an attempt to establish his continuous residence in the United States and his continuous physical presence, and his nationality, the applicant submitted various receipts, and the biographic page of his Honduran passport. The applicant has established his nationality. Therefore, the AAO's decision to deny the application for this reason is withdrawn.

However, the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence. In addition, there was no documentation relating to applicant's late initial registration. The primary basis for the denial of the application and the initial appeal was the applicant's failure to

file his Application for Temporary Protected Status within the initial registration period or to establish his eligibility for late registration for TPS. The motion does not address the applicant's eligibility for late initial registration. As such, the issue of the applicant's eligibility for late initial registration 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, dated May 11, 2007, is affirmed.