

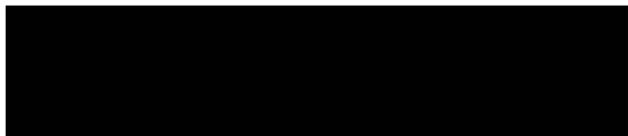
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U.S. Department of Homeland Security
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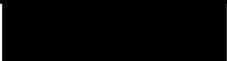


U.S. Citizenship
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FILE:



OFFICE: Vermont Service Center DATE:

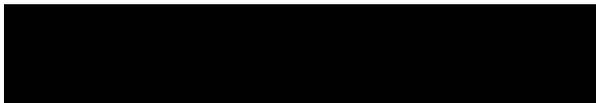
MAR 25 2008

[EAC 07 079 70490]

[EAC 08 057 51321, *motion*]

INRE:

Applicant:



APPLICATION:

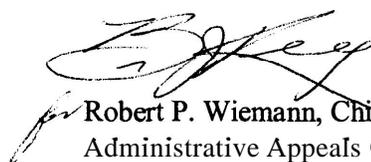
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 office that originally decided your case. Any further inquiry must be made to that office.


for 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 Chief, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The previous decision of the AAO will be affirmed and 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 an initial TPS application on May 20, 2003, under CIS receipt number SRC 03 162 54004. The director denied the application on September 29, 2003, after determining that the applicant had failed to establish she was eligible for late initial registration. The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on January 4, 2005, under receipt number WAC 05 104 71573, and indicated that she was re-registering for TPS. The Director, California Service Center, denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and she was not eligible to apply for re-registration. A subsequent appeal of the director's decision was dismissed by the Chief of the AAO on May 3, 2006, after he determined that the applicant had failed to establish that she was eligible for late registration. The Chief also found that the applicant had failed to establish her continuous residence and her continuous physical presence in the United States during the qualifying periods.

On December 17, 2006, the applicant filed her TPS application under CIS receipt number EAC 07 079 70490. The director denied that application on April 19, 2007, after determining that the applicant had failed to establish that she was eligible for late registration. The director also concluded that the applicant had failed to meet her continuous residence and her continuous physical presence requirements for TPS registration. A subsequent appeal from the director's decision was dismissed by the Chief of the AAO on October 3, 2007. The applicant now submits a subsequent motion to reopen.

On motion to reopen, the applicant asks CIS to reopen her case and give her the opportunity to be legal in the United States. She also states that she has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 of documentation relating to her claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the applicant also failed to file her Application for Temporary Protected Status within the initial registration period or to establish her eligibility for late registration. The motion does not address the applicant's eligibility for late registration. As

such, the issues on which the underlying decisions were based have 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 October 3, 2007, is affirmed.