



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

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[REDACTED]

FILE: [REDACTED]

Office: VERMONT SERVICE CENTER

Date: MAY 01 2008

[EAC 08 087 52160, motion]
[WAC 05 077 77144]

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

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC). A subsequent appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion 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 applicant filed an initial Form 1-821, Application for Temporary Protected Status, under receipt number SRC 03 086 54553 after the initial registration period had closed. The Director, Texas Service Center, denied that application on April 9, 2004, after determining that the applicant had **failed** to establish she was eligible for late initial registration. On May 12, 2004, the applicant filed an appeal from the denial decision. That appeal was dismissed by the Chief, AAO on January 4, 2008.

The applicant filed a subsequent Form 1-821 and indicated that she was re-registering for TPS.

The CSC Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. A subsequent appeal from the director's decision was dismissed on January 4, 2008, after the AAO Chief affirmed the decision of the director. 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 does not address why she should be eligible to apply for re-registration. As such, the threshold issue on which the underlying decision was 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.