



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

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER
[EAC 08 085 51506, *motion*]
[WAC 05 22670163]

Date: **MAY 23** 2008

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 and motion to reopen were dismissed by the Chief, 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 U.S.c. § 1254.

The applicant filed an initial Form 1-821, Application for Temporary Protected Status, on May 14, 2005, under receipt number WAC 05 226 10163 after the initial **registration** period had ended. The Director, California Service Center, denied the application on May 11, 2006, because the applicant had failed to establish that he was eligible for late initial registration.

A subsequent appeal was dismissed by the Chief, AAO, on April 3, 2001, who determined that in addition to the applicant being ineligible for late initial **registration**, he had also failed to establish that he had continuously resided in the United States since December 30, 1998, and had **been** continuously physically present since January 5, 1999. The applicant filed a motion to reopen the Chief, AAO's April 3, 2001 determination which was dismissed on January 3, 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 second motion does not address the applicant's eligibility for late initial registration, or prove the applicant's continuous residence or continuous physical presence during the required period. As such, the threshold issues 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 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 January 3, 2008 dismissing the first motion to reopen is affirmed.