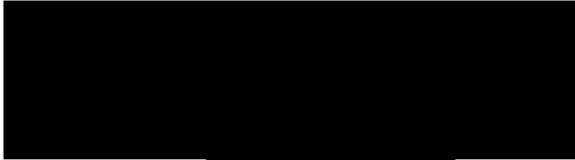




U.S. Citizenship
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Services

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invasion of personal privacy



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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: AUG 24 2007
[WAC 05 078 73165]

IN RE: 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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. 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 previous decision of the AAO will be affirmed and the motion to reopen will be dismissed.

The applicant is stated to be 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 I-821, Application for Temporary Protected Status, under receipt number SRC 04 227 54441 after the initial registration period had closed. The Director, Texas Service Center (TSC), denied that application on September 2, 2004, after determining that the applicant had failed to establish he was eligible for late initial registration, that he had not provided a copy of his current driver's license or a national identity document from his country of origin. The applicant filed an appeal from the denial decision which was dismissed by the Director, AAO (now Chief) on October 31, 2005, who agreed with the determination of the TSC Director and also found that the applicant had provided insufficient evidence to establish his continuous residence and continuous physical presence during the requisite time periods.

The applicant filed the current Form I-821 on December 17, 2004, and indicated that he was re-registering for TPS.

The 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 was dismissed by the Chief, AAO, on January 29, 2007, after determining that the applicant had failed to establish he was eligible for late initial registration, that he had provided insufficient evidence to establish his continuous residence and continuous physical presence during the requisite time periods, and that he had provided insufficient evidence to establish that he is a national or citizen of Honduras. On motion to reopen, the applicant reasserts his claim of eligibility for TPS and submits a copy of the applicant's Honduran passport along with evidence in an attempt to establish his continuous residence and continuous physical presence in the United States.

The applicant's motion to reopen consists of forwarding a copy of his passport and documentation relating to his claim of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. However, the primary basis for the denial of the application and the appeal was not a failure to establish qualifying residence and physical presence. Rather, the primary basis for these decisions was the applicant's failure to establish his eligibility for re-registration. The motion does not address the applicant's eligibility for re-registration. As such, the threshold issue on which the underlying decisions were 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. The previous decision of the AAO dated January 29, 2007 dismissing the appeal is affirmed.