

U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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M.L.

FILE:

[SRC 03 200 55449]

[SRC 05 102 51604, Motion]

Office: TEXAS SERVICE CENTER Date: OCT 10 2007

IN RE:

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 "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Director (now Chief), Administrative Appeals Office. The matter is now before the Administrative Appeals Office (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 director denied the application because the applicant failed to establish that he was eligible for late initial registration. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS), on July 8, 2003.

The appeal from the director's decision was dismissed on February 10, 2005, after the Director of the AAO also concluded that the applicant had failed to establish his eligibility for TPS.

On motion to reopen, the applicant reasserts his claim of eligibility for TPS. The applicant states that he has lived in the United States since 1998, and is sending additional evidence. In support of the motion, the applicant submits another copy of the biographic pages of his Honduran passport and additional evidence dated between December 18, 2001 and February 21, 2005, in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

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 only to his claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the primary basis for the denial of the application and the appeal was the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period or to establish his eligibility for late registration. The motion does not address the applicant's eligibility for late registration. In addition, the evidence submitted on appeal is dated as of December 18, 2001, and later. Further, the applicant's passport indicates that it was issued to him in Honduras on July 21, 2000, and precludes a favorable finding as to his continuous residence and continuous physical presence in the United States during the entirety of the requisite periods. As such, the issues on which the underlying decisions were based have not been overcome on motion. 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.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated February 10, 2005, is affirmed.