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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER
[EAC 06 255 82438]
[EAC 08 223 51493 – Motion]

Date OCT 23 2008

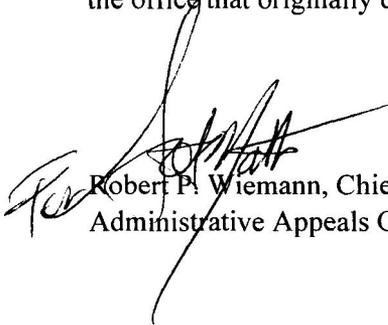
IN RE: Applicant: [REDACTED]

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


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 Director, Administrative Appeals Office (AAO). The applicant filed a motion to reopen that was subsequently dismissed by the AAO. The applicant filed another motion to reopen that was also dismissed by the AAO. The matter is again before the AAO on a third motion to reopen. The previous decisions of the AAO will be affirmed, and the motion will be dismissed.

The applicant is a 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 after determining that the applicant failed to establish he: 1) had continuously resided in the United States since December 30, 1998; 2) had been continuously physically present in the United States since January 5, 1999; and 3) was eligible for late registration.

A subsequent appeal was dismissed by the Chief, AAO, on October 19, 2007. The applicant filed his initial motion to reopen the decision on November 13, 2007. On March 25, 2008, the Chief, AAO dismissed that motion. On April 17, 2008, the applicant filed a second motion to reopen the decision. On July 22, 2008, the Chief, AAO dismissed that motion.

On the current motion to reopen, the applicant reasserts his claim of eligibility for TPS and states that he has been in the United States since 1997 and has provided all of the requested evidence. The applicant also submits non-probative evidence in attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. The applicant fails to submit any evidence in an attempt to establish his eligibility for late registration.

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 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 a statement from the applicant and submission of non-probative evidence previously provided. As such, the 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 is affirmed.