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FILE: [REDACTED] Office: California Service Center Date: **OCT 30 2006**
[WAC 06 176 50033 Motion]
[WAC 05 085 82944]

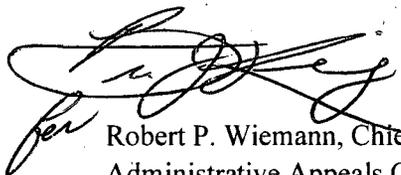
IN RE: Applicant: [REDACTED]

PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

ON BEHALF OF PETITIONER: 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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director, 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 stated to be 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 record reveals that the applicant filed a late initial TPS application on July 8, 2001 under CIS receipt number SRC-03-203-54552. The director denied that application on March 6, 2004, because the applicant failed to respond to a request to submit evidence to establish his eligibility for late initial registration for TPS within 30 days. The director, therefore, considered that application abandoned and denied the application. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not indicate that the applicant filed a motion to reopen or reconsider.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 24, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application, on July 23, 2005, 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 May 2, 2006, after the Director of the AAO also concluded that the applicant had failed to establish that he was eligible for late registration. On motion to reopen, the applicant reasserts his claim of eligibility for TPS. However, the applicant does not submit evidence in an attempt to establish his eligibility for late initial 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 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 only of a statement that he would like his case reopened to give him an opportunity to be legal in this country. There was no documentation relating to applicant's late initial registration. The primary basis for the denial of the application and the appeal was the applicant's failure to file his Application for Temporary Protected Status within the initial registration period or to establish his eligibility for late registration for TPS. The motion does not address the applicant's eligibility for late initial registration. As such, the issue on which the underlying decisions were based has not been addressed or overcome on motion.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to him.

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 May 2, 2006, is affirmed.