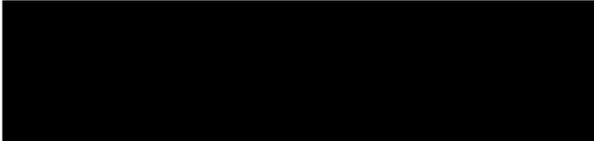




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **JUL 02 2007**
[WAC 05 055 77499]

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, California Service Center (CSC). A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant claims to be a native of Nicaragua and alternatively a citizen of Nicaragua and 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.

A review of the record indicates that the applicant filed an initial TPS application on June 19, 2002 [after the initial registration period for Nicaraguans and Hondurans, from January 5, 1999 through August 20, 1999, had closed], under receipt number SRC 02 204 56001. The Director, Texas Service Center, denied that application on July 2, 2002, because the applicant had failed to submit evidence to establish his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). A subsequent appeal was summarily dismissed by the AAO on January 10, 2003, after determining that the applicant had failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. On October 20, 2003, the applicant filed a motion to reopen the decision of the AAO. The AAO determined that the motion was untimely filed and dismissed the motion on February 2, 2005. The applicant filed another motion to reopen on February 22, 2005. The AAO dismissed that motion on September 26, 2006, because the issue on which the underlying decisions were based [the applicant's failure to establish his eligibility for late registration] had not been overcome on appeal.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on November 24, 2004, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on May 11, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant appealed the director's decision to the AAO on August 19, 2005. The AAO dismissed the appeal on September 26, 2006, after determining that the applicant had not previously been granted TPS; therefore, the applicant was not eligible to re-register for TPS. The AAO also noted that the Federal Bureau of Investigation fingerprint results report indicates that the applicant was arrested on November 24, 1997, in Florida, for "driving under the influence."

On October 27, 2006, the applicant filed a motion to reopen his case. The applicant submits additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence as described in 8 C.F.R. § 244.2(b) and (c). He also submits the records of the Circuit and County Courts, Dade County, Florida, indicating that the applicant was convicted on January 9, 1998, of driving under the influence, Florida Statute 316.193, a misdemeanor, under Case No. 167687W.

Pursuant to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceedings and be supported by affidavits or other documentary evidence. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

A review of the record reveals that the applicant has presented no new facts or other documentary evidence in support of the motion to reopen. While the applicant is not ineligible for TPS based on his one misdemeanor conviction as provided in section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a), the applicant had failed to overcome the director's primary basis for the denial of the initial application, in that he had failed to establish eligibility for late registration.

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

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

ORDER: The motion is dismissed. The decision of the AAO dated September 26, 2006, is affirmed.