

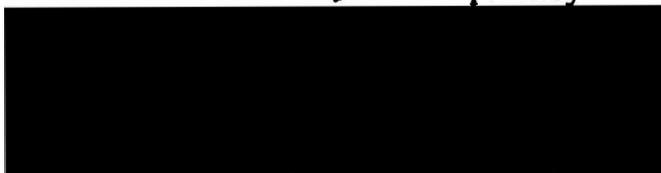


U.S. Citizenship
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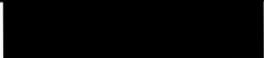
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FILE:



Office: VERMONT SERVICE CENTER

Date: AUG 01 2008

[EAC 08 127 50993, motion]
[WAC 05 084 73992]

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

The applicant is a native and citizen of Honduras who is applying for 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 03 193 54151 after the initial registration period had closed. The Director, Texas Service Center, denied that application on November 14, 2003, after determining that the applicant had failed to establish she was eligible for late initial registration. The applicant filed an appeal that was dismissed by the Director (now Chief) of the AAO on January 21, 2005. The applicant filed a subsequent motion to reopen which was dismissed by the AAO on July 31, 2007.

The applicant filed the current Form I-821 on December 23, 2004, under receipt number WAC 05 084 73992, and indicated that she was re-registering for TPS. The CSC Director denied the 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 to the AAO was dismissed on July 31, 2007, when it was found that in addition to the applicant being ineligible for re-registration, she was ineligible for late initial registration, and she had failed to establish that she had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999. A subsequent motion to reopen was denied by the AAO on March 3, 2008.

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 second motion does not address her ineligibility for re-registration or for late initial registration, or prove the applicant's continuous residence or continuous physical presence during the required period. As such, the threshold issues on which the underlying decisions were based have 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 decisions of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decisions of the AAO dismissing the appeal are affirmed.