



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

*MI*

FILE: [REDACTED] OFFICE: California Service Center DATE: **MAY 23 2008**  
[WAC 05141 76417]  
[EAC 08 105 51371, *motion*]

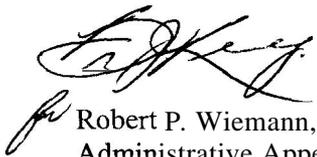
INRE: Applicant: [REDACTED]

APPLICATION: Application for Employment Authorization under 8 C.F.R. § 274a.12(c)(19)

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.

  
for 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 previous decision of the AAO will be affirmed and 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 record reveals that the applicant filed a TPS application on July 7, 2003, under Citizenship and Immigration Services (CIS) receipt number SRC 03 200 55770. The Director, Texas Service Center, denied that application on January 6, 2004, after determining that the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny. As the application was denied due to abandonment there were no appeal rights; however, the applicant could have filed a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe

The applicant filed her current TPS application on February 18, 2005, under CIS receipt number WAC 05 141 76417, and indicated that she was re-registering for TPS. The Director, CSC, denied the re-registration application on April 6, 2006 because the applicant's initial TPS application had been denied and she was not eligible for re-registration. A subsequent appeal was dismissed by the Chief of the AAO on August 24, 2007, after he also concluded that the applicant was not eligible for TPS. The AAO also found that the applicant had failed to establish her continuous residence and continuous physical presence in the United States during the requisite periods and that she had failed to establish her national identity. On October 4, 2007, the applicant submitted a motion to reopen which was dismissed by the AAO on January 29, 2008. The applicant has now submitted a second motion to reopen.

On motion to reopen, the applicant asks CIS to reopen and reconsider her TPS application and grant her the opportunity to work legally in the United States. She further states that she has been in the United States since 1998 and that she has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the requisite periods.

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 record of proceeding reveals that the applicant has established her national identity by submitting a copy of her Honduran passport. However, the applicant's motion to reopen consists of copies of the same documentation previously submitted relating to her claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. The motion does not address the applicant's eligibility for late registration. As such, the issues on which the underlying decisions were based has not been addressed or 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.