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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: OCT 02 2008

[EAC 08 016 50910, motion]

[SRC 03 223 53780]

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center (TSC). 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 seeking 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 02 210 55043 after the initial registration period had closed. The TSC Director denied that application on August 21, 2002, after determining that the applicant had failed to establish he was eligible for late initial registration. The applicant filed another Form I-821 under receipt number SRC 03 223 53780 on September 3, 2003. The TSC Director denied that application on February 26, 2004, finding the applicant had failed to establish he was eligible for late registration. A subsequent appeal was dismissed by the Director, AAO, on June 26, 2005, who determined that in addition to the applicant being ineligible for late initial registration, he had also failed to establish that he had continuously resided in the United States since December 30, 1998, and had been continuously physically present since January 5, 1999. A late motion to reopen was dismissed by the Chief, AAO on October 1, 2007.

On this motion, the applicant reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his continuous residence and continuous physical presence in the United States.

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 the applicant's eligibility 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.