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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
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Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: OCT 02 2008

[WAC 06 178 52451, *motion*]

[WAC 05 084 73563]

IN RE:

Applicant: [REDACTED]

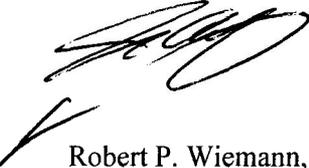
APPLICATION:

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 California 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, 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 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, on July 3, 2003, under receipt number SRC 03 196 52296 after the initial registration period had ended. The Director, Texas Service Center, denied the application on November 18, 2003, because the applicant had failed to establish that she was eligible for late initial registration. The applicant filed an appeal from the denial decision that was dismissed by the Director (now Chief) of the AAO on October 27, 2004.

The applicant filed another Form I-821 under receipt number WAC 05 084 73563 on December 23, 2004, and indicated that she was re-registering for TPS. The CSC Director denied the re-registration application on July 23, 2005, because the applicant's initial TPS application had been denied and she was not eligible to apply for re-registration for TPS. A subsequent appeal was dismissed by the Chief, AAO, on May 3, 2006, who determined that in addition to the applicant being ineligible for late initial registration, she had also 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 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 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 decision of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated May 3, 2006 dismissing the appeal is affirmed.