

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

MI

FILE:

[WAC 05 096 85033]

[EAC 08 168 51819 – motion]

Office: California Service Center

Date: **MAR 19 2009**

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting 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 third motion to reopen. 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 director denied the current TPS re-registration application on January 4, 2005. The CSC director denied the application on August 16, 2005, because the applicant's initial application had been denied and the applicant was not eligible to apply for TPR re-registration. A subsequent appeal from the director's decision was dismissed on July 24, 2006, after the AAO also concluded that the applicant had failed to establish that she was eligible for late registration. The AAO also concluded that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States.

The applicant appealed the AAO's decision on September 22, 2006. The CSC director rejected the untimely appeal as improperly filed because it was filed after the prescribed timeframe. The applicant filed a motion to reopen which was dismissed by the AAO on July 2, 2007. The applicant filed a second motion to reopen which was dismissed by the AAO on April 24, 2008. The applicant now submits a third motion to reopen.

A motion to reopen 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 the 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).

On motion to reopen, the applicant asserts that she has lived in the United States since 1997, and that she has answered all requests for documents that she has received from Citizenship and Immigration Services (CIS). The applicant also submits some evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The instant motion does not address the applicant's eligibility for TPS late registration, or establish the applicant's qualifying continuous residence and continuous physical presence in the United States.

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 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 decisions of the AAO are affirmed.