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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 27 2009**

[WAC 05 049 72424]

[EAC 09 027 52929 – MOTION]

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).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Director (now chief), Administrative Appeals Office (AAO). The applicant filed a motion to reopen that was dismissed by the AAO. The applicant filed another motion to reopen that was also dismissed by the AAO. The matter is again before the AAO on a third motion to reopen. The previous decision of the AAO will be affirmed, and 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 director denied the application after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on May 9, 2003. A subsequent untimely motion to reopen was dismissed by the AAO on May 11, 2007.

A subsequent TPS re-registration application was dismissed by the director after he determined that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. Upon review of the record of proceeding, the AAO concurred with the director's decision and dismissed the appeal, also on May 11, 2007.

On motion to reopen, the applicant reasserted his claim of eligibility for TPS but failed to submit any evidence in an attempt to establish his qualifying residence in the United States or his eligibility for late registration. The AAO dismissed this motion on March 3, 2008. Another motion to reopen was filed by the applicant on May 16, 2008. That motion was also dismissed by the AAO on October 2, 2008.

On the current motion to reopen, the applicant states that he has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, the applicant fails to submit sufficient probative evidence in an attempt to establish his eligibility for late registration.

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 that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant's motion to reopen consists of a statement from the applicant and submission of non-probative evidence. As such, the issue on which the underlying decisions were based has 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 is affirmed.