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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 and Immigration Services

[redacted]

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FILE: [redacted] Office: VERMONT SERVICE CENTER Date: SEP 3 0 2010

[redacted]-motion]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). Three motions were filed that have been subsequently dismissed by the AAO. The matter is again before the AAO on a motion to reopen and a motion to reconsider. The previous decisions of the AAO will be affirmed, and the motion will be dismissed.

The applicant is a 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 because the applicant failed to establish she was eligible for late registration.

The AAO, in dismissing the appeal on July 18, 2006, concurred with the director's findings. The AAO, conducting its review on an *de novo* basis, determined that the applicant had also failed to submit sufficient evidence to establish her continuous residence and physical presence in the United States during the requisite periods. The initial motion was dismissed by the AAO on August 28, 2007, as the issues on which the underlying decision was based had not been overcome on motion. The second motion filed on November 6, 2007, was dismissed as untimely by the AAO on July 8, 2008. The third motion was dismissed by the AAO on August 4, 2009, as the issues on which the underlying decision was based had not been overcome on motion.

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).

On motion, the applicant submits copies of affidavits that were previously provided along with new affidavits from acquaintances attesting to the applicant's presence in the United States prior to December 30, 1998. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that other relevant documents may be accepted in support of the applicant's claim, the regulation does not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since September 1997. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these affidavits; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial

registration period for the various circumstances *specifically identified* in the regulations. The applicant's circumstances outlined on appeal do not meet any of the criteria described in 8 C.F.R. § 244.2(f)(2).

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 as the issue presented on motion fails to contain new facts to be proved, fails to establish that the decision was incorrect based on the evidence of record at the time of the initial decision and fails to cite precedent decisions supporting a motion to reconsider. Therefore, the motion will be dismissed and the previous decisions of the AAO will not be disturbed.

**ORDER**: The motion is dismissed. The previous decisions of the AAO are affirmed.