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U.S. Citizenship
and Immigration
Services

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DEC 14 2004

FILE: [REDACTED]
[SRC 03 084 53422]

Office: TEXAS SERVICE CENTER Date:

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 office that originally decided your case. Any further inquiry must be made to that office.


for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, on April 21, 2003. The applicant filed a timely appeal that was reviewed and dismissed by the Director, Administrative Appeals Office (AAO), on December 18, 2003. The case is now before the AAO on a Motion to Reopen. The motion will be dismissed, and the previous denial by the AAO director will be affirmed.

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, Texas Service Center, denied the application because the applicant failed to establish she was eligible for late registration. The AAO director dismissed the appeal, affirming the service center director's determination that the applicant had not established that she was eligible for late registration.

On motion, the applicant asks that her case be re-opened and asks for "the opportunity to be legal in this country in which with a lot of difficulty [she has] lived here without having a better opportunity in employment and also to pay [her] taxes [sic]." She also states that she has lived in the United States since 1997, and would not like to lose her work permit. The applicant further states that due to lack of information she did not submit her application earlier because she was afraid she would be deported. The applicant also submits additional documentation in support of the 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 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).

The regulation at 8 C.F.R. § 103.5(a)(4) states in pertinent part that: "[a] motion that does not meet applicable requirements shall be dismissed."

The documentation submitted on motion pertains to the issue of the applicant's continuous residence and continuous physical presence in the United States during the requisite periods, and not to the reason for denial identified by the service center director and AAO director, as to whether the applicant is eligible for late registration under the provisions of 8 C.F.R. § 244.2(f)(2). The applicant's stated reason for not filing earlier does not meet the regulatory requirements for late registration. On motion, the applicant did not provide any new evidence pertaining to her eligibility for late registration. In addition, the records of Citizenship and Immigration Services (CIS) do not reflect an earlier TPS application under the applicant's name and date of birth.

The applicant has not asserted any new facts to be provided at the reopened proceeding. The applicant has not submitted any evidence on motion to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). For these reasons, the submissions do not meet the requirements of a motion to reopen, and the motion must be denied.

Further, it is noted that the some of the evidence submitted on motion is inconsistent with documentation previously entered into the record. The MoneyGram money transfer receipts, submitted on motion, dated in March 1998, May 1998, September 1998, as well in 2000, 2001, and 2002, all list the applicant's address as

being her current address of [REDACTED] Florida. This information, however, conflicts with documentation the applicant submitted in support of her appeal, including the Hibuera Express receipts dated in 1998, and the May 12, 2003, letter of [REDACTED] of Hialeah, Florida; these documents indicate that the applicant lived at a different address than appears on the MoneyGram receipts during the same time frame. In addition, on motion, the applicant submitted a payment receipt for a Bell South telephone bill dated September 10, 1999. This receipt identifies the same phone charges, account number and address as a Bell South receipt submitted in response to the Notice of Intent to [REDACTED]; the earlier copy, however, was dated as of September 15, 1999, and is written in a different handwriting. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the applicant has not credibly established her continuous residence and continuous physical presence in the United States during the requisite periods. Because she has not met the criteria described in 8 C.F.R. § 244.2(b) and (c), the application must also be denied for these reasons.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden

ORDER: The motion is dismissed, and the previous denial by the AAO director is affirmed.