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U.S. Citizenship
and Immigration
Services



FILE: [Redacted]

Office: TEXAS SERVICE CENTER Date: 01/17/2014

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

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center on May 30, 2002. The applicant filed a timely appeal that was dismissed by the Administrative Appeals Office (AAO) on September 18, 2002. The applicant filed a motion to reopen on November 8, 2002. The applicant filed a subsequent motion to reopen on August 18, 2003. Both motions are now before the AAO and each will be considered. The motions will be dismissed, and the prior decision of the AAO director is 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 the initial motion to reopen, filed November 8, 2002, the applicant states that she has been living in the United States since the year 1997. She states that she did not have money to apply at the time of the initial registration period, and rather gave priority to other necessities such as food and rent. She also states that she was afraid of being deported and lacked information. The applicant states that she is submitting additional evidence to demonstrate that she lived in the United States in 1999. The record, however, does not include any additional evidence submitted with the motion.

On the second motion to reopen, filed on August 18, 2003, the applicant asks that her case be re-opened and asks that she be given "the opportunity to continue being legal in this country in which with a lot of difficulty [she has] lived here having the opportunity of being employed and also given the chance to pay [her] taxes [sic]." Again, the applicant does not submit any additional evidence in support of the motion.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states, in pertinent part:

Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

Furthermore, 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).

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

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon her and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The AAO director's decision dismissing the appeal, dated September 18, 2002, clearly advised the applicant that any motion to reopen or reconsider must be properly filed within thirty days after service of the decision. 8 C.F.R. § 103.5(a)(1)(i). Coupled with three days for mailing, the motion, in this case, should have been filed on or before October 21, 2002. The first motion was received at the Texas Service Center on November 8, 2002. The second motion, based on the same September 18, 2002, decision, was received in August 18, 2003.

Based upon the applicant's failure to file a timely motion, both motions will be dismissed.

It is further noted that the reasons for not filing during the initial registration period, as stated on motion by the applicant, are not within the provisions of eligibility for late registration under the regulations at 8 C.F.R. § 244.2(f)(2).

In addition, neither motion states new facts to be proved at the reopened proceeding, or is supported by affidavits or other documentary evidence, in accordance with the regulatory requirements as provided at 8 C.F.R. § 103.5(a)(2). The applicant has not submitted any evidence on either 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 motions must be dismissed.

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 motions are dismissed, and the previous denial by the AAO director is affirmed.