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U.S. Citizenship
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MAR 03 2005

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date:
[SRC 02 201 54069]

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.

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

DISCUSSION: The application was denied by the Director, Texas Service Center on November 21, 2002. The applicant filed a timely appeal that was dismissed by the Administrative Appeals Office (AAO) on July 21, 2003. The applicant filed a timely motion to reopen on August 25, 2003. While that motion was pending, the applicant again filed subsequent motions on August 27, 2003, and on September 12, 2003. All of the pending motions will be addressed in this decision. The motions will be dismissed and the prior decision of 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 her eligibility for TPS benefits.

The applicant filed the initial motion to reopen on August 25, 2003, in response to the AAO director's decision. The applicant states that she has been living in the United States since the year 1996. The applicant asks that her case be reopened and that she be given: "the opportunity to continue being legal in this country in which with a lot of difficulty I have lived here having the opportunity of being employed and also given the chance to pay my taxes." In support of the motion, the applicant submits additional evidence relating to her residence and physical presence in the United States, and resubmits documentation that had previously been entered into the record.

The applicant filed a second motion to reopen on August 27, 2003, reiterating her statement made in the initial motion, without submitting additional evidence. Again, on September 12, 2003, the applicant filed a third motion in which she reiterates her previous statements and adds that she would not like to lose her work permit. The applicant does not submit additional evidence with this 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.

In this instance, the motion does not state new facts to be proved at the reopened proceeding. The applicant states that she has responded to all the requests from Citizenship and Immigration Services (CIS), and has evidence that she has lived in this country since 1996. However, the basis for the original denial of the application and the dismissal of the appeal was because the applicant had failed to submit evidence to establish her eligibility for late registration. The motions are not 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 motion to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

The submissions do not meet the requirements of a motion to reopen, and the motions must be dismissed.

Beyond the decision of the director, the applicant has also failed to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999. On her TPS and Employment Authorization applications, the applicant indicated her date of entry into the United States as "December 27, 1996." The record includes a non-receipted copy of an "Application for Stay of Deportation" dated "3-13-2000," and signed by the applicant on "7-23-01." In this document, the applicant states that she had lived in the United States since December 1996, and left the United States illegally because her father died in January 2000, and she had to take care of the expenses for her father's funeral. She states that she was apprehended by the United States Border Patrol on her attempt to re-enter the United States. The applicant did not submit any evidence relating to the death of her father. It is noted, however, as reported on the Form I-213, Record of Deportable/Inadmissible Alien, that at the time of her apprehension by the United States Border Patrol on March 14, 2000, at or near Laredo, Texas, the applicant stated that: she had left Honduras on October 30, 1999; spent five days in Guatemala; entered Mexico where she worked for several months to earn money; and, entered the United States on March 14, 2000. At the time of her apprehension, the applicant made no claim of having previously resided in the United States. Further, on the "Application for Redetermination of Custody Status," at Part F, the applicant indicated that she first entered the United States on March 14, 2000, and had not departed or re-entered the United States since her original date of entry.

In addition, it is noted that some of the documentation relating to the applicant's residence and physical presence in the United States, appears to have been altered. 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).

For the reasons discussed above, the applicant has also failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c), and the application must also be denied for these reasons.

It is also noted that the record includes a Warrant of Removal dated August 1, 2000, issued at San Antonio, Texas, based upon the final removal order dated June 15, 2000, by the Immigration Judge, San Antonio, Texas.

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. The previous denial by the AAO director is affirmed.