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U.S. Citizenship
and Immigration
Services

M 7



FILE: [REDACTED]
[SRC 02 252 54424]

Office: TEXAS SERVICE CENTER Date:

MAR 10 2005

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.

Cindy N. Gomez

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center on April 19, 2003. The applicant filed an appeal that was dismissed by the Administrative Appeals Office (AAO) on February 10, 2004. The applicant filed a motion to reopen on March 24, 2004, that is now before the AAO. The motion 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 motion to reopen on March 24, 2004, in response to the AAO director's decision. The applicant states that she has been living in the United States since the year 1998. The applicant asks that her case be reopened and that she be given: "the opportunity to be legal in this country in which with a lot of difficulty I have lived here without having a better opportunity in employment and also to pay my taxes [sic]." In support of the motion, the applicant submits additional evidence, and resubmits documentation that had previously been entered into the record.

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 February 10, 2004, 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 March 15, 2004.

The applicant has failed to submit a timely motion.

In addition, the motion does not state new facts to be proved at the reopened proceeding, and is 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). It also is noted that on motion the

applicant submits another copy of a document from Planned Parenthood of Greater Miami, Miami, Florida. The prior submission of this document was dated March 13, 1998, while this version is dated March 13, 2001; both copies are identical, except for the obvious alteration, including listing that the applicant is "age 48" in both 1998 and in 2001. 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).

The submissions do not meet the requirements of a motion to reopen, and the motion 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 motion is dismissed. The previous denial by the AAO director is affirmed.