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**U.S. Citizenship
and Immigration
Services**

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FILE:



[SRC 02 195 54867]

Office: TEXAS SERVICE CENTER

Date:

OCT 27 2005

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. A subsequent appeal was rejected by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The previous decision of the director will be affirmed and the motion to reopen will be dismissed.

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 service center director denied the application because the applicant failed to establish she was eligible for late registration.

A subsequent appeal from the director's decision was rejected on September 10, 2004, after the Director of the AAO determined that the applicant had failed to file her appeal within the allotted timeframe.

On motion to reopen, the applicant reasserts her claim of eligibility for TPS and submits evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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).

The applicant's motion to reopen consists of documentation relating to her claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the primary basis for the denial of the application and the appeal was not a failure to establish qualifying residence and physical presence. Rather, the primary basis for these decisions was the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period or to establish her eligibility for late registration. The motion does not address applicant's eligibility for late registration. As such, the issue on which the underlying decisions were based has not been overcome on motion.

In addition, it is noted that some of the evidence submitted by the applicant to establish her continuous residence and continuous physical presence in the United States during the requisite periods, is generic and cannot be linked directly to the applicant, and some of the documentation has 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).

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the motion to reopen will be dismissed and the previous decision of the director will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the director is affirmed.