



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[SRC 03 202 54479]

OFFICE: TEXAS SERVICE CENTER

Date: MAY 30 2006

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Director (now Chief), Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The previous decision of the AAO 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 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 dismissed on November 8, 2004, after the Director of the AAO also concluded that the applicant had failed to establish that she was eligible for TPS. The AAO Director determined that the applicant had submitted evidence that she is the spouse of an approved TPS registrant, and, therefore, qualified for late registration. The AAO Director determined, however, that the applicant had failed to submit sufficient evidence 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 motion to reopen, the applicant asserts that she has been living in the United States since 1998. She states that she did not apply for TPS during the initial registration period because she feared being deported. In support of the motion the applicant resubmits: her marriage certificate; documentation relating to her husband's TPS status; and, her Honduran national identity document. She also submits: money transfer receipts in her name dated in 2004; an envelope with an illegible date; and, generic bills and receipts dated in 2000, 2001, and 2003.

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 majority of the evidence is generic and cannot be directly linked to the applicant. The evidence also does not cover the entirety of the requisite periods. The applicant's Honduran national identity document indicates that it was issued to her in Honduras on February 26, 2001, and precludes a favorable finding as to her continuous residence and continuous physical presence in the United States during the requisite periods. Moreover, some of the documentation 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). As such, the issue on which the underlying decisions were based has not been overcome on motion.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated November 8, 2004, is affirmed.