



U.S. Citizenship
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FILE:



Office: California Service Center

Date: APR 30 2007

[WAC 05 074 75861 & WAC 06 253 54258 motion]

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 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, California Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. 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 record reveals that the applicant filed a late initial TPS application on June 18, 2001, under CIS receipt number SRC 01 239 58246. The director, Texas Service Center, denied the application, on May 22, 2002, after determining that the applicant had failed to establish she was eligible for late initial registration. A subsequent untimely motion to reopen was also dismissed by the TSC Director on November 19, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 13, 2004, under CIS receipt number WAC 05 074 75861, and indicated that she was re-registering for TPS. The director, California Service Center, denied that application on July 23, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible to re-register for TPS.

A subsequent appeal from the director's decision was dismissed by the Director of the AAO, on August 3, 2006, after the Director of the AAO also concluded that the applicant had failed to establish that she was eligible for re-registration. The Director of the AAO affirmed the decision of the director as a previous grant of TPS had not been afforded the applicant, and the applicant was not eligible to re-register for TPS. The applicant filed this motion to reopen or reconsider that decision.

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 only of a statement that she would like her case reopened to give her an opportunity to be legal in this country as she has been in the United States since 1998. With the motion, in an attempt to establish her continuous residence and her continuous physical presence, the applicant submits photocopies of:-

- Part of an automobile certificate of title, issued on December 27, 2001;
- An insurance identification card, dated December 17, 2001;
- A Certificate of Completion, issued on October 25, 2001, for a DTA S.T.A.R.T. Course;
- A 2003 Form-1040, U.S Individual Income Tax Return; and,
- [REDACTED] documents, including telephone invoices, cash receipts, and generic receipts.

However, there was no documentation relating to applicant's late initial registration. The applicant failed to submit evidence to establish that she was eligible for late initial registration, under 8 C.F.R. § 244.2(f)(2). The primary basis for the denial of the application and the appeal was the applicant's failure to file her Application for Temporary Protected Status within the initial registration period or to establish her eligibility for late registration for TPS. The motion does not address the applicant's eligibility for late initial registration. As such, the issue on which the underlying decisions were based has not been addressed or 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 August 3, 2006, is affirmed.