



U.S. Citizenship
and Immigration
Services

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FILE:



[SRC 04 049 54427]

Office: TEXAS SERVICE CENTER

Date:

AUG 01 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 Chief, Administrative Appeals Office (AAO). The matter is now before the 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 that she was eligible for late initial registration. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS), on December 8, 2003. The director also determined that the applicant failed to establish her continuous physical presence in the United States since January 5, 1999.

A subsequent appeal from the director's decision was dismissed on January 26, 2005, after the AAO Director also concluded that the applicant had failed to establish her eligibility for TPS.

On motion to reopen, the applicant reasserts her claim of eligibility for TPS. The applicant states that she has lived in the United States since 1997, and states that she would like to have the opportunity to live legally in the United States. In support of the motion, the applicant submits additional evidence dated between March 24, 2000 and November 25, 2004, and resubmits some of the evidence that had previously been entered into the record, in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States.

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 only 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 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 the applicant's eligibility for late registration. In addition, while the evidence in the applicant's name submitted on appeal is dated as of the year 2000, and later, as noted in the previous decision of the AAO, the evidence submitted for the early portion of the requisite periods is generic and cannot be directly linked to the applicant. It does not, therefore, establish the applicant's continuous residence and continuous physical presence in the United States during the entirety of the requisite periods. As such, the issues on which the underlying decisions were based have not been overcome on motion. 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.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated January 26, 2005, is affirmed.