



U.S. Citizenship
and Immigration
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 02 2007

[WAC 05 096 85033]

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, Chief
Administrative Appeals Office

DISCUSSION: The [re-registration] application was denied by the Director, California Service Center (CSC). The Administrative Appeals Office (AAO) dismissed an appeal from the denial decision. The CSC director subsequently rejected an untimely appeal from the AAO's decision. The matter is now before the AAO on a motion to reopen. The motion will be dismissed, and the previous decision of the AAO 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.

A review of the record of proceeding indicates that the applicant filed an initial TPS application on May 16, 2002, after the initial registration period for Hondurans had closed, under receipt number SRC 02 179 55797. The Director, Texas Service Center (TSC), denied that application based on abandonment on September 3, 2002, because the applicant had failed to respond to a request to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). On November 14, 2002, the applicant filed a motion to reopen the TSC director's decision. The TSC director denied that motion on December 6, 2002, because the motion was untimely and the applicant had failed to meet the criteria for late registration. On December 27, 2002, the applicant filed a second motion to reopen. The TSC director denied that motion on December 24, 2003, because the applicant had failed to allege new facts that would establish her eligibility for TPS. On February 3, 2004, the applicant filed a third motion to reopen. The TSC director denied that motion on February 18, 2004, because the applicant again had failed to allege new facts that would establish her eligibility for TPS.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 4, 2005, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant appealed the director's decision to the AAO on September 7, 2005. The AAO dismissed the appeal on July 24, 2006, after maintaining that to be eligible for re-registration, a previous grant of TPS must have been afforded the applicant, as only those individual who are granted TPS must register annually, and, in addition, the applicant must continue to maintain the conditions of eligibility; therefore, because the applicant had not previously been granted TPS, the applicant was not eligible to re-register for TPS. The AAO further noted that the applicant had not submitted sufficient evidence to establish continuous residence and continuous physical presence in the United States during the requisite period.

The applicant appealed the AAO's decision on September 22, 2006. The CSC director rejected the appeal as improperly filed. It was also noted that the appeal was untimely filed, after the required 30 days from the denial decision.

The applicant again filed an appeal or a motion to reopen. She requests that her case be reopened because she has been residing in the United States since 1997, and that she has submitted all the documents requested by USCIS.

Pursuant to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceedings and be supported by affidavits or other documentary evidence. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). A review of the record reveals that the applicant has presented no new facts or other documentary evidence in support of the motion to reopen, and to establish that that she was eligible for re-registration, that she was eligible for late registration, and that she had established her qualifying continuous residence and continuous physical presence during the requisite periods, as addressed by the AAO.

Accordingly, the motion will be dismissed, and the previous decision of the AAO will be affirmed.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to her.

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

ORDER: The motion is dismissed. The decision of the AAO dated July 24, 2006, is affirmed.