

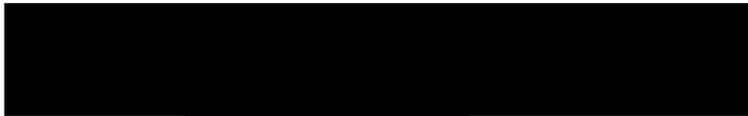


U.S. Citizenship
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: JAN 22 2008
[LIN 02 237 51718]
[LIN 03 209 53635, motion]

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 office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. An untimely appeal was treated as a Motion to Reopen and was denied again by the Director, Nebraska Service Center. The applicant appealed the director's decision on the motion and it is now before the Administrative Appeals Office on appeal. The appeal 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 determined that the applicant failed to establish that she was eligible for filing her TPS application after the initial registration period from January 5, 1999 to August 20, 1999. The director, therefore, denied the application on January 6, 2003.

On February 27, 2003, the applicant filed an untimely appeal that was treated as a motion. The director subsequently denied the motion again on May 28, 2003 after determining that the grounds for denial had not been overcome.

On the present motion to reopen, the applicant reasserted her claim of eligibility for TPS but failed to submit any probative evidence in an attempt to establish her eligibility for late registration.

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 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 a statement from the applicant and submission of non-probative evidence previously provided. As such, the issue on which the underlying decisions were based has not been overcome on motion.

Beyond the director's decision, it is noted that a Federal Bureau of Investigation (FBI) fingerprint results report indicates that the Zion Police Department arrested the applicant on October 25, 2000 for "Retail Theft." The final disposition for this arrest is not in the record. CIS must address this arrest and any convictions in any future proceedings. It is also noted that the applicant provided a photocopy of the first page of her passport in an attempt to establish her nationality and her identification. However, the passport was signed by the applicant and issued in Honduras on April 25, 2000. This is evidence that the applicant has not met the continuous residence and physical presence criteria described in 8 C.F.R. § 244.2(b) and (c).

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 director dated May 28, 2003, is affirmed.