

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

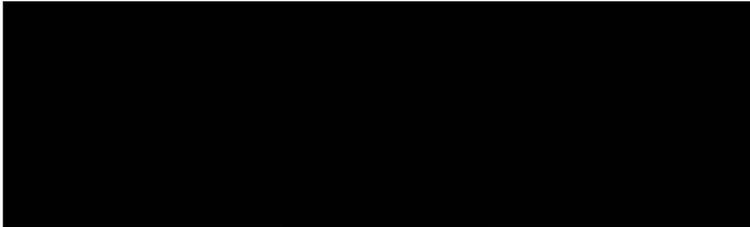
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

MI



FILE:



Office: Vermont Service Center

Date: **MAY 06 2008**

Consolidated therein]

[WAC 0614070039]

[EAC 07 22450477, *motion*]

INRE:

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 Vermont 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 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 February 17, 2006, under Citizenship and Immigration Services (CIS) receipt number WAC 06 140 70039. The director denied the application on July 11, 2006, because the applicant failed to submit evidence to establish eligibility for late initial registration for TPS, her continuous residence in the United States, and her continuous physical presence in the United States. The applicant also failed to provide evidence of her nationality.

A subsequent appeal from the director's decision was dismissed by the Chief of the AAO, on May 21, 2007. The AAO affirmed the director's denial noting that the applicant had failed to establish eligibility for late initial registration for TPS. The AAO also noted that the record revealed that the applicant was apprehended on entry, on July 28, 2005, by the U.S. Border Patrol, and placed in removal proceedings. Therefore, she cannot establish the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). For these reasons the AAO affirmed the director's denial and dismissed the appeal. The applicant filed this motion to reopen/reconsider.

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.

However, the record contains no documentation relating to applicant's late initial registration. It is noted that the applicant failed to submit sufficient evidence to establish that she was eligible for late initial registration, under 8 C.F.R. § 244.2(f)(2). The 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, to establish her eligibility for late registration for TPS, and her continuous residence and continuous physical presence in the United States. It is noted that the applicant stated on her Form I-821, Application for Temporary Protected Status, that she entered the United States on August 4, 2004. It is also noted that the applicant was apprehended on entry by the Eagle Pass, Texas, Border Patrol on July 28, 2005, and was placed in proceedings. Therefore, the applicant cannot establish continuous residence since December 30, 1998, and continuous physical presence in the United States since January 5, 1999, the date of filing her TPS application. Also, the motion does not address the applicant's eligibility for late initial registration. As such, the issues on which the underlying decisions were based have 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 May 21,2007, is affirmed.