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U.S. Department of Homeland Security
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Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE:

[SRC 04 106 54356]

Office: TEXAS SERVICE CENTER

Date:

APR 02 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 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 Nicaragua who is applying for 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 registration. The director also determined that the applicant had failed to establish her continuous physical presence in the United States during the requisite time period. Finally, the director found that the applicant had failed to submit a copy of her current driver's license.

A subsequent appeal from the director's decision was dismissed on August 5, 2005, after the Director of the AAO affirmed the director's determination and also concluded that the applicant had failed to establish that she was eligible for late registration and had not established her continuous residence and continuous physical presence in the United States. On motion to reopen, the applicant reasserts her claim of eligibility for TPS and submits evidence in an attempt to establish her continuous residence and continuous physical presence in the United States.

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 to her claim of continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States. However, the primary basis for the denial of the application and the appeal was not a failure to establish qualifying residence and physical presence. Rather, the primary basis for these decisions 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. The motion does not address the applicant's eligibility for late registration. As such, the issue on which the underlying decisions were based has not been 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 5, 2005, dismissing the appeal is affirmed.