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



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: California Service Center DATE: OCT 02 2008

[SRC 04 110 53453]

[WAC 05 239 52558, motion]

IN RE:

Applicant:

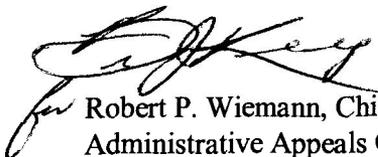


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for 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 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 record reveals that the applicant filed a late initial TPS application on March 5, 2004, under receipt number SRC 04 110 53453. The Director, Texas Service Center, denied that application on May 20, 2004, after he determined that the applicant had failed to submit evidence establishing her eligibility for late registration. The director found that the applicant had failed to establish her continuous residence and continuous physical presence in the United States during the requisite periods. The director also found that the applicant failed to submit a copy of her current driver's license and a copy of any national identity document from her country of origin. On June 21, 2004, the applicant submitted a subsequent appeal from the director's decision. The AAO dismissed that appeal on August 4, 2005, after the AAO concurred with the director's finding. The applicant has now submitted a motion to reopen.

It is noted that the applicant had submitted a copy of her Republic of Honduras national identity card upon initial submission. The applicant also submitted copies of her Florida driver's license and Florida identification card, both issued to her on April 6, 2004.

On motion, the applicant asks CIS to reopen her case and give her the opportunity to be legal in the United States. She also states that she has been in the United States since 1998 and has provided all of the requested evidence. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. In addition, the applicant submits a copy of a car payment receipt from Zimmerman Auto Brokers, Inc., dated May 31, 2000; a copy of a money transfer receipt from Intermex; a copy of a receipt from Comp Laser USA, Inc., dated June 26, 2001; a copy of a Certificate of Attendance from the English Center dated December 5, 2001; a copy of a receipt from Petit Sophisticate Outlet dated December 23, 2002; a copy of a CheckCard from Nations Bank; a copy of a receipt from Beyond dated March 4, 2002; a copy of an apartment lease agreement with a date of lease on October 10, 2003; a copy of a bank statement from Bank of America dated October 15, 2003; a copy of a class schedule from the English Center dated May 11, 2004; a copy of a handwritten receipt dated November 17, 2004; a copy of a receipt from Laitano Services dated April 9, 2004; a copy of a statement from ProMedical Plan, Inc., dated May 6, 2005; and, a copy of an Auto Club South Card valid thru June 15, 2006.

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 copies of documentation relating to her claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the motion does not address the applicant's eligibility for late 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 August 4, 2005, is affirmed.