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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date: JUN 02 2010

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). A motion was filed that has been subsequently dismissed by the AAO. The matter is again before the AAO on a motion to reopen and motion to reconsider. The previous decisions of the AAO will be affirmed, and the motion 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 director denied the application because the applicant failed to establish: 1) late registration; 2) her qualifying continuous residence; 3) her continuous physical presence; and 4) her nationality. The AAO, in dismissing the appeal on July 13, 2007, withdrew the director's finding regarding the applicant's nationality, but concurred with the director's other findings. The applicant's initial motion was remanded by the AAO on March 28, 2008, but was subsequently withdrawn.¹ On March 5, 2010, the director dismissed the motion as the underlying decisions had not been addressed or overcome on motion.

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).

On the current motion, the applicant submits additional evidence including receipts from home improvement stores and department stores in an attempt to establish her continuous residence since December 30, 1998, and continuous physical presence in the United States since January 5, 1999. The applicant contends that she meets the criteria for late registration as she is a national of Honduras and has continuously been physical presence in the United States since January 5, 1999.

The receipts provided for 1998 and 1999 have no probative value or evidentiary weight as they failed to list the applicant's name. Excluding the additional receipts, the remaining documents only serve to establish the applicant's residence and physical presence subsequent to the requisite periods. In order to be eligible for late registration, the regulation at 8 C.F.R. § 244.2(f)(2) provides that during the initial registration period, the applicant must establish that she: (i) was a nonimmigrant or had been granted voluntary departure status or any relief from removal; (ii) has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief

¹ The case was remanded as it was determined that the applicant was filing a motion from the decision of the denial of the application her employment authorization. However, it was later determined that the applicant was filing a motion from the dismissal of her appeal of July 13, 2007.

from removal which is pending or subject to further review or appeal; (iii) was a parolee or had a pending request for reparole; or (iv) is a spouse or child of an alien currently eligible to be a TPS registrant. The applicant has not provided any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Once again, the issues on which the underlying decisions were based have 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 and failed to cite precedent decisions supporting a motion to reconsider. Accordingly, the motion to reopen and motion to reconsider will be dismissed and the previous decisions of the AAO will not be disturbed.

ORDER: The motion is dismissed. The previous decisions of the AAO are affirmed.