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U.S. Citizenship
and Immigration
Services

MI



FILE: [REDACTED]
[SRC 03 195 54612]

OFFICE: TEXAS SERVICE CENTER

Date: JUL 31 2006

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 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, Texas Service Center. A subsequent appeal was dismissed by the Director (now Chief), Administrative Appeals Office. The matter is now before the Administrative Appeals Office (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 director denied the application because the applicant failed to establish she was eligible for late registration.

A subsequent appeal from the director's decision was dismissed on March 15, 2005, after the Director of the AAO also concluded that the applicant had failed to establish that she was eligible for TPS. The AAO Director determined that the applicant had failed to establish her eligibility for late registration. The AAO Director also determined that the applicant had failed to submit sufficient evidence to establish her continuous residence in the United States since December 30, 1998, and her continuous physical presence in the United States since January 5, 1999.

On motion to reopen, the applicant asserts that she has been living in the United States since 1997, and would like the opportunity to be legal in this country. In support of the motion, the applicant submits: additional cargo and money transfer receipts in her name dated between 2000 and 2003; and, bill payment receipts dated in 2003.

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 documentation relating to her claim of residence and physical presence in the United States. However, the primary basis for the denial of the application and the appeal was the applicant's failure to file her Form I-821, 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. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO dated March 15, 2005, is affirmed.