

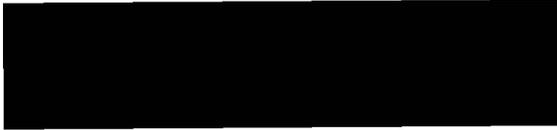


U.S. Citizenship
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Services

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FILE:



Office: California Service Center

Date: APR 02 2009

[WAC 05 152 76439]

[EAC 08 208 51901- 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 Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting 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 applicant filed two subsequent motions to reopen that were dismissed by the AAO. The matter is now before the AAO on a third motion to reopen. The motion to reopen will be dismissed.

The applicant is stated to be a native and citizen of Nicaragua 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 her application on October 10, 2006, after determining that the applicant did not establish her eligibility for TPS late registration. The director also determined that the applicant failed to establish her qualifying continuous residence and continuous physical presence during the requested time periods. The application was also denied because the applicant did not establish her identity.

Upon review of the record of proceedings, the AAO concurred with the director's conclusion and dismissed the appeal on September 4, 2007. The applicant filed a motion to reopen on October 16, 2007. The Chief of the AAO dismissed the motion on February 20, 2008, and affirmed his previous decision. The applicant filed a second motion to reopen on March 18, 2008. The AAO dismissed that motion to reopen on June 30, 2008. The applicant now submits a third motion to reopen.

On motion to reopen, the applicant requests that her case be reopened. The applicant again reasserts her claim of eligibility for TPS late registration. The applicant also submits some evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

A motion to reopen 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 the 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 motion does not address the applicant's eligibility for TPS late registration. As such, the issue on which the underlying decision was based has not been overcome on motion.

Further, the applicant's motion to reopen consists of some evidence in an attempt to establish her residence and physical presence in the United States during the qualifying periods. The applicant provides copies of Western Union money transfer receipts and laboratory results. However, the name and dates on these documents appear to have been altered to reflect the applicant's name and an earlier date of issuance. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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 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 dismissing the appeal is affirmed.