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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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APR 01 2010

FILE:

[WAC 05 078 51532]
[EAC 10 002 50089 – MOTION]

Office: VERMONT SERVICE CENTER

Date:

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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The applicant filed subsequent motions to reopen that were dismissed by the AAO. The matter is again before the AAO on a fourth motion to reopen. The previous decisions of the AAO will be affirmed, and the motion will be dismissed.

The applicant is 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 the application after determining the applicant failed to establish her eligibility for re-registration.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on July 5, 2007. The applicant filed a motion to reopen on July 16, 2007. That motion was dismissed by the AAO on January 4, 2008. The applicant filed a second motion to reopen on January 28, 2008. That motion was dismissed by the AAO on October 31, 2008. The applicant filed a third motion to reopen on November 28, 2008. That motion was dismissed by the AAO on September 1, 2009. The current motion to reopen was filed on September 29, 2009.

On the current motion to reopen, the applicant states that she has been in the United States since 1998. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period, but fails to submit any evidence in an attempt to establish her eligibility for late registration.

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 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 a statement from the applicant and submission of non probative evidence. As such, the issue on which the underlying decisions were based has not been overcome on motion.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence since December 30, 1998 and continuous physical presence from January 5, 1999 to the filing date of the TPS application. Therefore, the application must be denied for these reasons as well.

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 is affirmed.