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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

**PUBLIC COPY**

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[Redacted]

FILE: [Redacted] Office: VERMONT SERVICE CENTER

Date:

JUL 14 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:

[Redacted]

**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, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen and a motion to reconsider. 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 that she was eligible for late registration, and failed to establish her qualifying continuous residence in the United States during the requisite period. The AAO, in dismissing the appeal on February 24, 2010, concurred with the director's findings. The AAO, conducting its review on a *de novo* basis, determined that the applicant had also failed to establish her identity and nationality.

On motion, counsel provides a copy of the applicant's Honduran passport and additional evidence in an attempt to establish the applicant's continuous residence.

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 motion, counsel asserts that the applicant qualifies for late registration as she is a child of an alien currently eligible to be a TPS registrant. Counsel argues, "[t]he burden of proof in connection with this part has been met when the birth certificate of the applicant and the evidence that the parents currently hold TPS status was submitted."

Counsel's assertion is not supported by the record as at the time the applicant filed her TPS application, no birth certificate was provided. Nevertheless, on motion, the applicant has established her identity and nationality as required in 8 C.F.R. § 244.9(a)(1).

On motion, counsel asserts that the applicant's father did not understand the English language at the time and he trusted the individual who completed his applications on his behalf. Counsel asserts that the father was not aware that the individual had typed incorrect information on the applications. Counsel also asserts that the applicant's mother does not understand why the applicant's school registration form indicates she entered on February 15, 2002. Counsel asserts that the mother does not remember indicating at the school that her daughter had entered the United States in 2002.

As noted in AAO's decision of February 24, 2010, the applicant's father, in affixing his signature on part five of his TPS applications, certified that the information he provided was *true* and *correct*. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

On motion, counsel asserts that no consideration was given to the applicant's immunization records issued by the Georgia Department of Human Resources, which established that the applicant entered the United State before the initial registration period.

The immunization record reflects that during 1995 and 1996 several vaccinations were given to the applicant. However, no credible evidence has been submitted to establish that the vaccinations were administered in the United States and not in the applicant's native country. The record clearly shows that the applicant was born on March 6, 1995, and that both parents claimed in their affidavits the applicant came to the United States "when she was 3 years old." As such, the vaccinations in question were administered to the applicant in her native country. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

A review of the remaining evidence submitted on motion reveals no facts that could be considered "new" under 8 C.F.R. § 103.5(a)(2). The remaining documents were previously presented and considered in the decisions of the director and/or the AAO.

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 as the issue presented on motion fails to contain new facts to be proved, fails to establish that the decision was incorrect based on the evidence of record at the time of the initial decision and fails to cite precedent decisions supporting a motion to reconsider. Accordingly, the motion will be dismissed and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion is dismissed. The previous decision of the AAO is affirmed.