



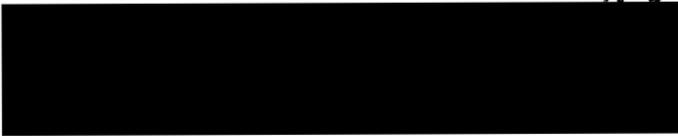
U.S. Citizenship
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FILE: [REDACTED] Office: California Service Center
[WAC 05 116 73459]
[EAC 09 001 51306 – motion]

Date: APR 02 2009

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 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 a native and citizen of El Salvador 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 current application on August 16, 2005, after determining that the applicant was not eligible to apply for TPS re-registration because his initial TPS application had been denied.

Upon review of the record of proceedings, the AAO concurred with the director's conclusion and dismissed the appeal on April 6, 2007. The applicant filed a motion to reopen on April 27, 2007. The Chief of the AAO dismissed the motion on January 3, 2008, and affirmed his previous decision. The applicant filed a second motion to reopen on January 28, 2008. The AAO dismissed that motion to reopen on September 2, 2008. The applicant now submits a third motion to reopen.

On motion to reopen, the applicant requests that his case be reopened. The applicant submits some evidence in an attempt to establish his 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 applicant's motion to reopen consists of some evidence regarding his residence and physical presence in the United States during the qualifying periods. The motion does not address the applicant's eligibility for TPS late registration. Further, the applicant does not provide any evidence to establish his eligibility for TPS late registration. As such, the issue on which the underlying decision was based has 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 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.