

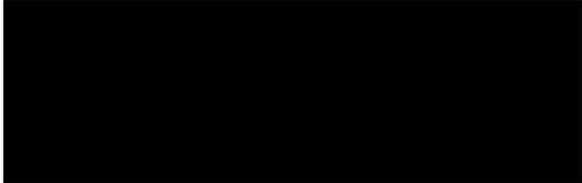
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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [Redacted]
[SRC 01 258 55485]

Office: TEXAS SERVICE CENTER

Date: JUN 24 2005

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 office that originally decided your case. Any further inquiry must be made to that office.

for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the 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 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 determined that the applicant failed to submit evidence to establish that he had resided in the United States since February 13, 2001 and that he had been continuously physically present in the United States since March 9, 2001.

A subsequent appeal from the director's decision was dismissed on February 26, 2004, after the Director of the AAO outlined the applicant's submitted evidence item by item and affirmed the director's determination. On motion to reopen, the applicant reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his qualifying residence in the United States.

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, the applicant resubmits twelve documents that have previously been considered. The rest of the documents forwarded by the applicant on appeal are dated from December 31, 2001 through September 1, 2003 and do not enhance his claim to having resided in the United States since February 13, 2001 and having been continuously physically present in the United States since March 9, 2001.

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 dated February 26, 2004, is affirmed.