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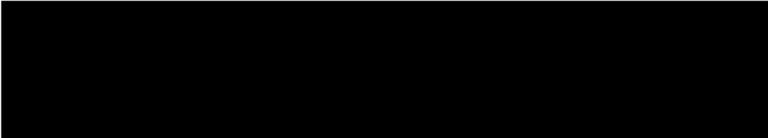
OFFICE: Vermont Service Center

DATE: **AUG 31 2007**

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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, 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. The matter is now before the Administrative Appeals Office (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 claims to be a 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 application, because the applicant failed to establish he was eligible for late registration.

A subsequent appeal from the director's decision was dismissed on July 1, 2004, after the Director of the AAO also concluded that the applicant had failed to establish that he was eligible for late registration. A subsequent Motion to Reconsider was denied by the Chief, AAO, on November 17, 2006.

On motion to reopen, the applicant asserts that the inconsistencies discussed by the director were minor, and that he has established eligibility.

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).

The applicant's motion to reopen consists of documentation relating to his claim of residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. However, the applicant has not articulated any new facts to be proved, or how the director's decision was an incorrect application of law or policy, and does not establish that the decision was incorrect based on the evidence of record at the time of the initial decision. In addition, the director did not deny the application based solely on the inconsistencies, but on the fact that the record as a whole did not support eligibility, as the affidavits submitted were not sufficiently probative to carry the applicant's burden. The applicant has failed to submit any additional evidence to address the basis of the director's decision. As such, the issue on which the underlying decisions were based has not been addressed or 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 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 November 17, 2006, is affirmed.