



U.S. Citizenship
and Immigration
Services

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JUN 27 2007

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 106 77096]

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:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 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 application because the applicant failed to establish her eligibility for re-registration.

A subsequent appeal from the director's decision was dismissed on July 21, 2006, after the Director of the AAO also concluded that the applicant had failed to establish that she was eligible for re-registration. On motion to reopen, counsel states that she will be forwarding a brief and additional evidence, and reasserts the applicant's claim of eligibility for TPS. No further response has been received.

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 has failed to state new facts or to submit affidavits or other documentary evidence to support a motion to reopen. The applicant's initial TPS application was denied by the Director, Vermont Service Center, on March 16, 2005, because she failed to submit sufficient evidence to establish her eligibility for continuous residence and continuous physical presence. The applicant subsequently submitted a re-registration application on January 14, 2005. That TPS application was denied by the director on August 16, 2005, because the applicant's initial TPS application had been denied and she was not eligible to apply for re-registration for TPS. On appeal, the AAO affirmed the director's denial. The applicant has failed to provide any new facts or additional evidence to overcome the previous decision of 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 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 July 21, 2006, is affirmed.