



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



MI

FILE: [REDACTED]
[WAC 05 197 70461]

Office: CALIFORNIA SERVICE CENTER

Date: SEP 06 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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 rejected by the Director, California Service Center. 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 record reveals that the applicant filed a TPS application subsequent to the initial registration period under CIS receipt number LIN 03 103 50141. The Director, Nebraska Service Center, denied that application on May 22, 2003, because the applicant failed to submit sufficient evidence to establish her eligibility for late registration, continuous residence, and continuous physical presence.

The applicant filed an appeal on June 24, 2003. The AAO is dismissing the appeal under a separate order because the applicant has failed to submit sufficient evidence to establish her eligibility for late registration, continuous residence, and continuous physical presence.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

A subsequent appeal from the director's decision was rejected on December 15, 2005, after the Director California Service Center, concluded that the applicant had failed to timely file her appeal, and that the appeal did not meet the requirements of a motion to reopen or reconsider. On motion to reopen, the applicant reasserts her claim of eligibility for TPS.

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 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. Accordingly, the motion to reopen will be dismissed and the previous decisions of the Director, California Service Center (CSC) will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decisions of the CSC are affirmed.