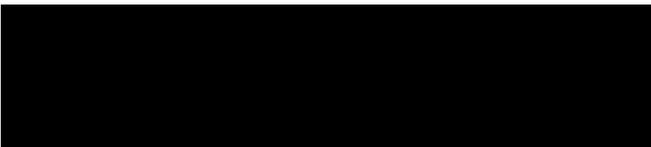


PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

MI



FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: JAN 16 2008
[WAC 05 207 74652]
[WAC 07 255 52492-MOTION]

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 California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the application and the Chief, Administrative Appeals Office (AAO), dismissed a subsequent appeal. The AAO also dismissed the applicant's motion to reopen. The matter is now before the AAO on a motion to reconsider. The previous decisions of the AAO will be affirmed and the motion to reconsider 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, Texas Service Center, denied the applicant's initial TPS application because the applicant did not respond to a request to appear for fingerprinting. The Director, California Service Center, denied a subsequent application for re-registration 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 dismissed on July 3, 2006, after the AAO also concluded that the applicant was not eligible to apply for re-registration and had failed to establish that he was eligible for late registration. The applicant's motion to reopen was dismissed as untimely filed.

On motion to reconsider, counsel asserts that the AAO failed to consider whether the applicant had demonstrated that his late motion was reasonable and beyond his control.

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).

Counsel asserts in her motion to reconsider, as she did in her motion to reopen, that the applicant was not aware that his initial TPS application had been denied in July 2003. Counsel asserts that only when his July 2005 re-registration application was denied did the applicant learn the basis of the denial of this application. Counsel did not explain how this lack of knowledge resulted in the late filing of the applicant's motion to reopen.

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 pertinent precedent decision that would establish that the AAO's decision on the applicant's motion to reopen was incorrect based on the evidence of record. Accordingly, the motion to reconsider will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reconsider is dismissed. The previous decision of the AAO dated August 2, 2007, is affirmed.