

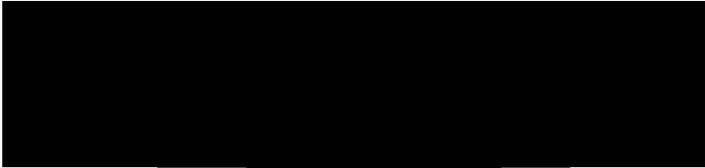


**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: NEBRASKA SERVICE CENTER

Date JUN 30 2008

[LIN 01 17952743]

[LIN 03 250 52917, motion]

INRE:

Applicant:



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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 motion to reopen will be dismissed and the previous decision of the AAO will be affirmed.

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 establish he had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on July 31, 2003.

On motion to reopen, the applicant asserts that there were discrepancies in his paperwork. According to the applicant, he traveled all over the country working. However, the applicant failed to submit any evidence in an attempt to establish his qualifying residence in the United States.

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 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 a statement from the applicant and resubmission of evidence previously provided. As such, the issue on which the underlying decisions were based has not been overcome on motion.

It is noted that the applicant filed his initial TPS application on May 7, 2001. The Director, Nebraska Service Center, denied that application on September 13, 2001 because the applicant failed to provide evidence to establish his identity. There is nothing in the record to indicate that the applicant appealed the director's decision. It is also noted that a Federal Bureau of Investigation fingerprint results report indicates that the Waukegan, Illinois, Police Department arrested the applicant on August 22, 2003 for "Solicitation of Sexual Act." The final disposition for this arrest is not included in the record, nor was the final court disposition requested. It is also noted that the applicant has failed to declare on his applications that he has ever been arrested. CIS must address this arrest in any future proceedings.

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 31, 2003, is affirmed.