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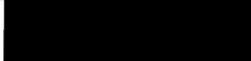


U.S. Citizenship
and Immigration
Services

MI



FILE:



OFFICE: Vermont Service Center DATE: NOV 03 2008

[EAC 07 058 70240]

[EAC 08 210 51623, motion]

IN RE:

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 Vermont 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, Vermont Service Center. A subsequent appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The matter is now before the 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 is a native and citizen of Honduras 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 on November 24, 2006, under Citizenship and Immigration Services (CIS) receipt number EAC 07 058 70240. The Director, Vermont Service Center, denied that application on March 5, 2007, after he determined that the applicant failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods. A subsequent appeal was dismissed by the Chief of the AAO on January 3, 2008, after he concurred with the director's finding. On January 29, 2008, the applicant submitted a motion to reopen which was dismissed by the AAO on June 30, 2008. The applicant has now submitted a second motion to reopen.

On motion, the applicant states that he has responded to all the documents with evidence to prove that he has been living in the United States since 1998 and that he has never been in any kind of trouble with the law. He further states that some people never applied for TPS when the program started in the year 1999 due to the lack of information regarding the TPS application process.

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 copies of the same documentation previously submitted relating to his claim of residence since December 30, 1998, and physical presence since January 5, 1999, in the United States. However, the motion does not address the applicant's eligibility for late registration. 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 is affirmed.