

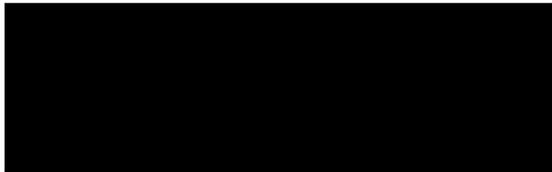
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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FILE:

Office: VERMONT SERVICE CENTER

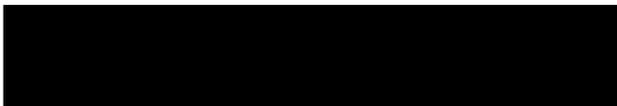
Date: **MAY 06 2010**

[WAC 05 062 75267]

[EAC 10 001 51082 – 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 office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. §103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a fifth motion to reopen and reconsider. The previous decisions of the AAO will be affirmed, and the motion will be dismissed.

The applicant is a 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 director denied the re-registration TPS application because the applicant's initial application (SRC021865031) had been denied, and the applicant was not eligible to apply for re-registration for TPS.

The AAO, in dismissing the appeal on February 28, 2006, concurred with the director's findings. On the first through third motions, the applicant failed to meet the requirements of a motion to reopen and motion to reconsider and, therefore, the motions were dismissed. The AAO dismissed the applicant's fourth motion to reopen and reconsider because it was untimely filed.

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 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).

The regulation at 8 C.F.R. § 103.5(a)(4) states, "[a] motion that does not meet applicable requirements shall be dismissed."

On the current motion, the applicant submits the same non-probative evidence that was previously provided on appeal and on earlier motions along with a statement requesting that his TPS application be reconsidered. Once again, the issues on which the underlying decisions were based have not been 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 cited any precedent decisions in support of his motion to reconsider, and the applicant has failed to provide any new facts supporting a motion to open. Accordingly, the motion to reopen and motion to reconsider will be dismissed and the previous decisions of the AAO will not be disturbed.

ORDER: The motion is dismissed. The previous decisions of the AAO are affirmed.