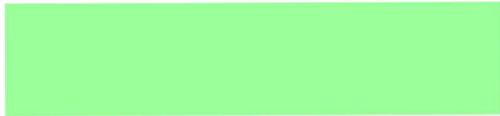


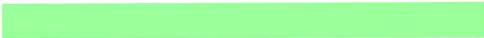


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: Office: CALIFORNIA SERVICE CENTER FILE: 
JUN 28 2013

IN RE: Applicant: 

APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The applicant is a citizen of Haiti who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

On June 15, 2012, the director denied the application because the applicant failed to establish he was eligible for late registration. The AAO, in dismissing the appeal on January 30, 2013, concurred with the director's finding.

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

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 U.S. Citizenship and Immigration Service (USCIS) 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).

In this case, the applicant failed to support his motion with any legal argument or precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. The motion to reconsider will be dismissed.

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). Based on the plain meaning of "new," a new fact is found to be evidence that was not available and could not have been discovered or presented in the previous proceeding.¹ A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion the applicant requests that his TPS application be reconsidered as he has been residing in the United States since 1991. The applicant reiterates his claim that he was not aware of the TPS deadline. The applicant submits a copy of his son's birth certificate and a statement from the Social Security Administration reflecting his earnings since 1992 through 2010.

The provisions for late registration were created in order to ensure that TPS benefits were made available to individuals who did not register during the initial registration period for the various circumstances specifically identified in the regulations at 8 C.F.R. § 244.2(f)(2) and (g). The applicant has not submitted any evidence on motion to establish that he has met any of the criteria for late registration.

¹ The word "new" is defined as "1. having existed or been made for only a short time . . . 3. Just discovered, found, or learned <new evidence>" WEBSTER'S II NEW RIVERSIDE UNIVERSITY DICTIONARY 792 (1984)(emphasis in original).

A review of the evidence that the applicant submits on motion reveals no fact that could be considered “new” under 8 C.F.R. § 103.5(a)(2). As such, the issue on which the denial of the application and the dismissal of the appeal were based has not been overcome on motion. The motion to reopen will be dismissed.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not sustained that burden. The previous decisions of the director and the AAO will not be disturbed.

ORDER: The motions are dismissed. The previous decision of the AAO is affirmed and the application remains denied.