



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

M1

[REDACTED]

FILE:

[REDACTED]
[WAC 05 238 70676]
[WAC 08 135 51360 - MOTION]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 30 2009

IN RE:

Applicant:

[REDACTED]

APPLICATION:

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

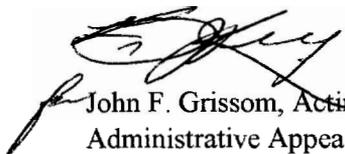
ON BEHALF OF APPLICANT:

[REDACTED]

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.

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, as required by 8 C.F.R. 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. An untimely appeal was treated as a Motion to Reopen and was denied again by the Director, California Service Center. The applicant appealed the director's decision on the motion and it is now before the Administrative Appeals Office on a motion to reopen. The case will be remanded.

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 denied the application after determining that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The Director, California Service Center, denied the application on April 25, 2006.

On February 6, 2008, the applicant filed a motion to reopen the director's decision. On March 17, 2008, the Director, California Service Center dismissed the motion as untimely. The applicant filed the current motion to reopen on April 11, 2008.

The director accepted the motion as an appeal and forwarded the file to AAO in error. However, the applicant has, in fact, submitted a motion to reopen that must be addressed by the director.

As the director's rendered the decision on the previous motion to reopen, the AAO has no jurisdiction on this case, and it may not be appealed to the AAO. Therefore, the case will be remanded and the director shall consider the motion.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The case is remanded to the director for further action consistent with the above and entry of a decision.