

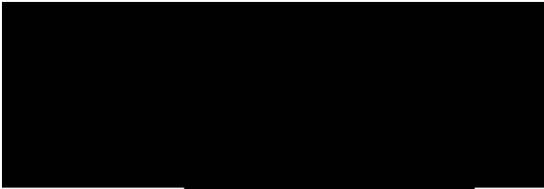
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **MAR 19 2009**
[EAC 07 279 71170]
[EAC 08 232 50207 – Form I-290B]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Employment Authorization under 8 C.F.R. § 274a.12(c)(19)

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.

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 Director, Vermont Service Center (VSC), denied the application. The applicant filed a motion to reopen which was dismissed by the director. The application is now before the Administrative Appeals Office (AAO) on a subsequent motion to reopen. The case will be remanded for further action.

The applicant is a native and citizen of Honduras who is seeking Employment Authorization under 8 C.F.R. § 274a.12(c)(19) as an alien with a pending application for Temporary Protected Status (TPS). The director of the California Service Center (CSC) denied the underlying TPS application [WAC 05 096 85033] on August 16, 2005.

On September 5, 2007, the director denied the current application for Employment Authorization because the underlying TPS application had been denied. On October 1, 2007, the applicant filed a motion to reopen. The director granted the motion and again denied the application on December 12, 2007, because the applicant's TPS had been denied. On January 11, 2008, the applicant filed a second motion which was dismissed by the director on July 29, 2008. In response to the director's decision, the applicant filed a Form I-290B, Notice of Appeal or Motion [EAC 08 232 50207], on August 27, 2008.

The AAO has no jurisdiction over applications for Employment Authorization. The director erroneously accepted the applicant's response as an appeal instead of a motion to reopen and forwarded the file to the AAO. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

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.