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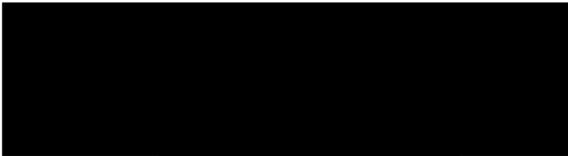
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



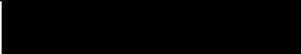
U.S. Citizenship
and Immigration
Services

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FEB 02 2010

FILE:



Office: VERMONT SERVICE CENTER

Date:

[EAC 01 160 55134]
EAC 09 199 50081 – MOTION]

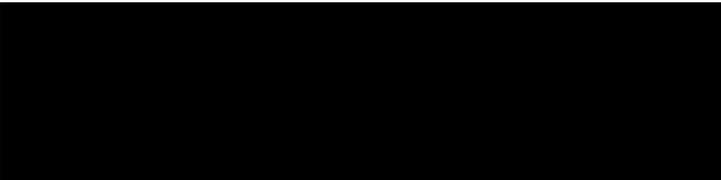
IN RE:

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:



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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed and the previous decision of the AAO will be affirmed.

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 director withdrew the applicant's TPS after determining that the applicant failed to submit requested court documentation relating to his criminal record.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on June 3, 2009.

On motion to reopen, counsel for the applicant reasserts his claim of eligibility for TPS. Counsel states that the applicant has retained an attorney to file for post conviction relief in one of his criminal charges. Counsel contends that AAO should wait for the state court procedure to finish in order to render a final decision. Counsel also states that copies of any petitions would be forwarded to the AAO. Counsel and the applicant have failed to submit any additional evidence to indicate that any relief has been requested or is forthcoming and also failed to submit the requested certified final court disposition. The AAO must render a decision based on the record before it. To date, there has been no further correspondence from the applicant or counsel. Therefore, the record must be considered complete.

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 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 a statement from the counsel and an unsubstantiated claim that relief is being sought in one of his criminal charges. No evidence has been provided to support these claims. As such, the issue on which the underlying decisions were based has 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 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.