

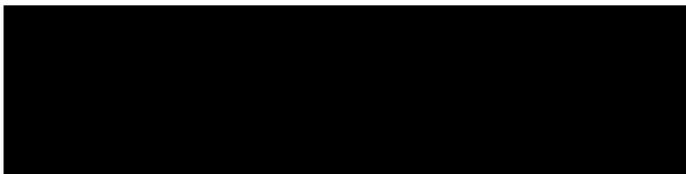
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER
[EAC 09 112 73035-I-765]
[EAC 10 046 50775-motion]

Date: MAY 06 2010

IN RE: Applicant: [REDACTED]

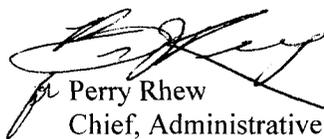
APPLICATION: Application for Employment Authorization under 8 C.F.R. § 274a.12(c)(19)

IN 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 Director, Vermont Service Center, denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action.

The applicant is a native and citizen of El Salvador who was granted Employment Authorization under 8 C.F.R. § 274a.12(c)(12) as an alien with an approved application for Temporary Protected Status (TPS). On October 28, 2005, the director withdrew the applicant's TPS because the applicant had been convicted of two misdemeanors. The AAO, in dismissing the appeal on March 26, 2007, concurred with the director's findings.

On November 4, 2009, the director denied the current Form I-765, Application for Employment Authorization, because the applicant's TPS had been withdrawn. In response to the director's decision, the applicant filed a Form I-290B, Notice of Appeal or Motion.

At Part 2 of the Form I-290B, the applicant indicated that he was filing a motion to reopen the Form I-765 dated November 4, 2009. The applicant, however, inadvertently listed the receipt number for the TPS application instead of the receipt number for the Form I-765.

The AAO has no jurisdiction over applications for Employment Authorization. The director erroneously annotated the Form I-290B as a motion to reopen for the Form I-821 and forwarded the matter to the AAO. Therefore, the case will be remanded and the director shall consider the applicant's response as a motion to reopen.

Assuming, *arguendo*, the applicant was filing a motion to reopen of the AAO's decision of March 26, 2007, the motion would be denied as it would have been untimely filed. *See* 8 C.F.R. § 103.5(a)(1)(i).

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.