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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  
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FILE:



Office: Vermont Service Center

Date:

SEP 07 2010

motion]

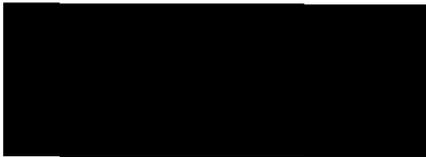
IN RE:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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

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 because the applicant had failed to submit the requested court dispositions relating to his criminal record. On appeal, from the denial of the director's decision, some of the requested court dispositions were provided.

The AAO, in dismissing the appeal on March 29, 2010, found the applicant ineligible for TPS due to his two misdemeanor convictions, and for his failure to submit the court dispositions for his earlier driving while intoxicated arrests.

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 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 Service 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).

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

On motion, counsel asserts that the applicant is seeking to modify or negate one of his misdemeanor convictions. Counsel asserts that the applicant's criminal defense attorney is currently preparing to file a motion with the court seeking a *nunc pro tunc* dismissal of the driving under the influence criminal conviction. Counsel requests that a final decision of the applicant's TPS be held pending the outcome in the Circuit Court.

The regulations, however, do not provide for the extension of time to supplement the record on motion, but require documentary evidence to be submitted with the motion. 8 CFR 103.5(a)(2). As such, counsel's request is denied.

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 as the issue presented on motion fails to contain new facts to be proved and fails to cite precedent decisions supporting a motion to reconsider. Therefore, the motion will be dismissed and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion is dismissed. The previous decision of the AAO is affirmed.