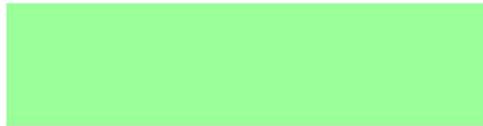




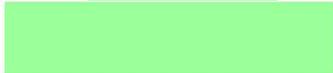
U.S. Citizenship
and Immigration
Services

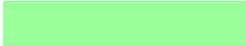
(b)(6)



DATE: OCT 10 2013

Office: CALIFORNIA SERVICE CENTER

FILE: 


IN RE: Applicant: 

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

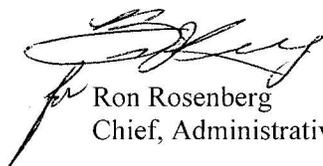
ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant is a citizen of Haiti 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 because the applicant failed to establish he was eligible for late registration as described in 8 C.F.R. § 244.2(f)(2) and (g). The AAO, in dismissing the appeal on March 4, 2013, affirmed the director's finding.¹ The AAO conducted appellate review on a *de novo* basis and determined that because the applicant had entered the United States on January 31, 2011, he had also failed to establish continuous residence since January 12, 2011.

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). Based on the plain meaning of "new," a new fact is found to be evidence that was not available and could not have been discovered or presented in the previous proceeding.² A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

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

On motion, the applicant provides a copy of his Notice to Appear (Form I-862) as evidence of his January 31, 2011 entry into the United States. The applicant requests that due to the conditions in his native country, Haiti, his application be reconsidered and approved.

The provisions for late registration were created in order to ensure that TPS benefits were made available to individuals who did not register during the initial registration period for the various circumstances specifically identified in the regulations at 8 C.F.R. § 244.2(f)(2) and (g). The applicant has not submitted any evidence on motion to establish that he has met any of the criteria for late registration. The applicant also has not submitted any evidence to establish continuous residence in the United States since January 12, 2011.

A review of the evidence that the applicant submits on motion reveals no fact that could be considered "new" under 8 C.F.R. § 103.5(a)(2). As such, the issue on which the denial of the application and the dismissal of the appeal were based has not been overcome on motion. The motion to reopen will be dismissed.

¹ The applicant's first attempt to file a TPS application was 92 days after the expiration of the termination of his application for asylum or relief from removal.

² The word "new" is defined as "1. having existed or been made for only a short time . . . 3. Just discovered, found, or learned <new evidence>" WEBSTER'S II NEW RIVERSIDE UNIVERSITY DICTIONARY 792 (1984)(emphasis in original).

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not sustained that burden. The previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion is dismissed. The previous decision of the AAO is affirmed and the application remains denied.