



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE **MAR 24 2014**

Office: VERMONT SERVICE CENTER

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:

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, Vermont 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 and motion to reconsider. The motion will be denied.

The applicant is a 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.

On March 22, 2013, the director denied the application because the applicant failed to establish that he was eligible for late registration, and because the applicant failed to establish continuous residence and continuous physical presence in the United States during the requisite periods.

The AAO conducted appellate review on a *de novo* basis and determined that the applicant had only established his nationality as a Honduran as credible evidence had not been submitted to establish dual citizenship.<sup>1</sup> Citing *Matter of Echevarria*, 25 I&N Dec. 512 (BIA 2011), the AAO determined that the applicant had met the eligibility requirement for late registration. The AAO, in dismissing the appeal on January 15, 2014, concurred with the director's remaining findings.

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).

A benefit request which is rejected will not retain a filing date. 8 C.F.R. § 103.2(a)(7)(iii).

The AAO rendered its decision on January 15, 2014. The Form I-290B, Notice of Appeal or Motion, was received on February 6, 2014; however, it was rejected as improperly filed.<sup>2</sup> The Form I-290B was received on February 20, 2014, 36 days after the date of the AAO's decision. The applicant has not demonstrated that the delay was reasonable and beyond his control. The motion is untimely.

Assuming *arguendo* the motion was timely filed, it would still be denied as the motions fail to contain new facts to be proved, fail to establish that the decision was incorrect based on the evidence of record at the time of the initial decision and fail to cite precedent decisions supporting a motion to reconsider. On motion, counsel requested an extension of 30 days to prepare a brief and submit additional evidence. The regulations, however, do not provide for the

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<sup>1</sup> Counsel, on appeal, indicated that the applicant was a dual citizen of Honduras and El Salvador.

<sup>2</sup> The date of the financial instrument was not current.

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*NON-PRECEDENT DECISION*

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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).

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 motion was not filed within the allotted time period. Accordingly, the motion will be denied and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion is denied. The previous decision of the AAO dated January 15, 2014, is affirmed.