



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: Office: VERMONT SERVICE CENTER
APR 15 2015

FILE: [REDACTED]
I-290B: [REDACTED]

IN RE: Applicant: [REDACTED]

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application for Temporary Protected Status was denied by the Director, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and denied a motion to reopen. The matter is now before the AAO on a second motion. The motion to reconsider will be dismissed, and the previous decision of the AAO will be affirmed. The application remains denied.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a. On June 17, 2013, the director denied the application because the applicant was found to be applicant inadmissible under section 212(a)(2)(A)(i)(II) of the Act due to a drug-related conviction. In dismissing the appeal on March 19, 2014, we concurred with the director's findings. We determined that without the police report or complaint/indictment indicating the amount of marijuana in the applicant's possession at the time of his arrest, the applicant remained inadmissible under section 212(a)(2)(A)(i)(II) of the Act. The applicant's first motion was dismissed on May 12, 2014, as the issue on which the underlying decision was based had not been overcome on motion.

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration (USCIS) policy. 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).

In this case, counsel submits a brief wherein he claims that the documentary evidence submitted in relation to the applicant's arrest for possession of a brown, leafy substance does not constitute a conviction as defined by the Act, as a judge did not order any form of punishment, penalty, or restraint. Counsel also contends that because the court ordered that the arrest/conviction shall be deemed, in contemplation of law, not to have occurred, there was no restraint placed on the applicant's liberty. Despite these assertions, the applicant provides no precedent decisions on this second motion to establish that the decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3). As such, the motion must be dismissed.

The burden of proof in application proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Therefore, the motion will be dismissed, and the previous decision of the AAO will not be disturbed.

ORDER: The motion is denied. The previous decision of the AAO dated May 12, 2014 is affirmed.