

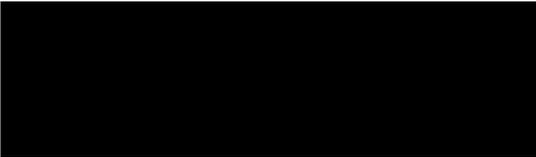
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FILE:



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Office: NEBRASKA SERVICE CENTER

Date: **NOV 29 2005**

IN RE:

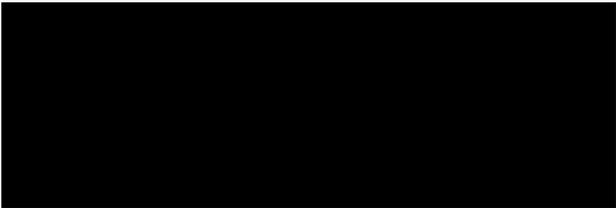
Applicant:



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:

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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded.

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. § 1254.

The director determined that the applicant failed to establish that he had submitted his annual re-registration. The director, therefore, denied the application.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States without a lawful admission or parole in December 1989. The director approved the application for Temporary Protected Status (TPS) on December 3, 2001. The director subsequently withdrew the applicant's Temporary Protected Status on March 1, 2004, when it was determined that the applicant had failed to submit evidence that he submitted his annual re-registration for the period between September 9, 2002 through September 9, 2003.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite period.

An alien who has been granted Temporary Protected Status must register annually with the district office or service center having jurisdiction over the alien's place of residence 8 C.F.R. § 244.17(a).

On November 3, 2003, the director notified the applicant that his Temporary Protected Status would be "withdrawn unless you can submit additional evidence to show that you are eligible for Temporary Protected Status re-registration."

In response, the applicant submitted additional documentation; however, he failed to provide any evidence that he was eligible to re-register for TPS.

The director concluded that the applicant had failed to overcome the grounds stated in the Notice of Intent to Withdraw and withdrew the applicant's TPS on March 1, 2004.

On appeal, counsel explained that the applicant inadvertently failed to timely re-register for TPS. According to counsel, the applicant attempted to file for his re-registration by contracting the services of an individual he believed to be a Notary Public. Counsel states that the individual filed a Form I-765, Application for Employment Authorization, but failed to submit a Form I-821, Application for Temporary Protected Status, for TPS re-registration. In response to the notice requesting additional evidence, the applicant submitted a statement in which he said that he had lost his wallet, which contained all of his documents, including his TPS approval and employment authorization for the previous year.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act if the alien fails without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of Temporary Protected Status. 8 C.F.R. § 244.17(c).

In this case, it does not appear that the applicant "willfully" failed to re-register. Therefore, the director's decision to withdraw the applicant's Temporary Protected Status, will, itself, be withdrawn.

The case will be remanded and the director shall fully adjudicate the application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Hondurans. 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 director's decision is withdrawn. The case is remanded for further action.