



U.S. Citizenship
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Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: JUL 03 2006

[WAC 05 127 70450]
[WAC 02 041 55613]

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: SELF-REPRESENTED

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant, who claims to be a native and citizen of El Salvador, was granted Temporary Protected Status (TPS) on March 8, 2002.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 4, 2005, and indicated that he was re-registering for TPS.

The director denied the application on April 18, 2005, when it was determined that the applicant had failed to submit the required annual re-registration for each 12-month period subsequent to the approval of his application. Specifically, the director stated that the applicant failed to re-register for the 2003-2004 period.

On appeal, the applicant submits a statement and additional evidence.

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).

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General. Section 244(c)(3)(c)(A) of the Immigration and Nationality Act (the Act.)

The record reveals that on March 8, 2002, the director approved the applicant's initial Form I-821, Application for Temporary Protected Status. The record also reveals that the applicant filed a re-registration application on September 19, 2002, under receipt number WAC 03 040 53295. The application was approved, and an extension of the applicant's employment authorization was granted for the period from September 10, 2002 to September 9, 2003. The applicant filed the current re-registration application on February 4, 2005. However, the record does not reflect an attempt by the applicant to re-register for the 2003-2004 period.

The director erroneously denied the current re-registration application on April 18, 2005, because he determined that the applicant had failed to re-register for the 2003-2004 period. The director should have withdrawn the applicant's Temporary Protected Status rather than simply denying the current re-registration application. Therefore, this case will be treated as a withdrawal of TPS for failure to re-register for the 2003-2004 period.

On appeal, the applicant asserts that he filed a re-registration application for each re-registration period as required, including a re-registration application he claims he filed in September 2003. In support of his assertion, the applicant submits a photocopy of a Form I-765, Application for Employment Authorization, apparently signed by the applicant on September 7, 2003, and a photocopy of a money order issued on September 5, 2003, payable to B.C.I.S. (now C.I.S.) in the amount of \$120. However, the applicant has not provided any evidence to show that this application was ever mailed to CIS, or that such an application was ever received by CIS in September 2003. Nor has the applicant provided any evidence to establish that the photocopied money order was ever cashed by CIS in September 2003. CIS computer records contain no indication that the applicant filed a re-registration application on or around September 7, 2003. It is concluded that the applicant has failed to establish

that he re-registered for the 2003-2004 period. Consequently, the applicant's Temporary Protected Status will be withdrawn for this reason.

Beyond the decision of the director, the applicant has failed to affirmatively establish his identity and nationality. The record reveals that the applicant was apprehended by the United States Border Patrol on July 4, 1999, near Eagle Pass, Texas, after having entered the United States without inspection. He identified himself to the apprehending officers as [REDACTED] and told them that he was a native and citizen of Honduras. He stated that he and his son, [REDACTED] departed Honduras on or about June 13, 1999, and entered the United States on the afternoon of June 4, 1999, by wading the Rio Grande River near the Eagle Pass, Texas, Port of Entry. The applicant was released on his own recognizance and placed in removal proceedings. On March 6, 2002, an Immigration Judge in Harlingen, Texas, ordered the applicant removed to Honduras in absentia. The record contains an outstanding Form I-205, Warrant of Removal/Deportation, issued by the District Director, San Antonio, Texas, on March 19, 2002. (A77 611 251).

The applicant claimed to be a Honduran national when he was apprehended by the United States Border Patrol, but subsequently claimed to be a native and citizen of El Salvador when he filed his Form I-821, Application for Temporary Protected Status. The applicant has not provided any explanation for this discrepancy in his claimed citizenship. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988). Therefore, as stated above, the applicant has failed to establish his identity and nationality as set forth at 8 C.F.R. § 244.9(a)(1).

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted. 8 C.F.R. § 244.14(a)(1).

In this case, it has now been determined that the applicant was not, in fact, eligible for TPS at the time his status was granted, because he has failed to affirmatively establish his identity and nationality. Therefore, the applicant's Temporary Protected Status also must be withdrawn for this reason.

The applicant's Temporary Protected Status will be withdrawn for the above stated reasons, with each considered an independent and alternative basis for withdrawal. An alien applying for Temporary Protected Status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed, and the applicant's Temporary Protected Status is withdrawn.