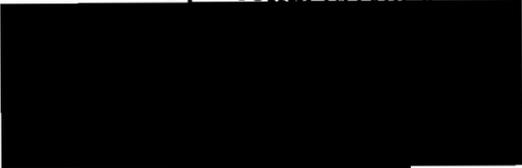




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: MAY 31 2007

[consolidated herein]

[EAC 01 205 54404]

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.

Cindy M. Gomez
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the application will be approved.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status. The director subsequently withdrew the applicant's Temporary Protected Status on December 3, 2003, 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.

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Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner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) INA.

In a request for evidence dated April 28, 2003, the director requested that the applicant submit evidence that he had filed for re-registration between September 9, 2002 and November 12, 2002. The applicant failed to respond to the director's request for evidence.

The director concluded that the applicant had failed to establish that he had successfully re-registered for the September 9, 2002 through November 12, 2002 period. Therefore, the director withdrew the applicant's TPS on December 3, 2003.

On appeal, the applicant stated that he was ill, had heart surgery, and was unable to re-register. In this case, the applicant provided an explanation for his failure to re-register and it does not appear that the applicant "willfully" failed to re-register for the 2002-2003 period. Therefore, with respect to this issue, the director's decision will be withdrawn, and TPS will be continued for the applicant.

The director also denied the application because the applicant failed to establish that he had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant asserts his claim of eligibility for TPS.

On April 28, 2003, the applicant was requested to submit evidence establishing continuous physical presence in the United States since March 9, 2001. The applicant failed to respond to the director's request for evidence.

As previously stated, the director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and withdrew TPS on December 3, 2003.

On appeal, the applicant states that he has been physically present in the United States since July of 2000, and that his presence has been continuous. The applicant submits the following documentation:

1. Receipts from [REDACTED] bearing the applicant's name and dated from August 20, 2000 to March 20, 2002;

2. Hospital records from [REDACTED] Hospital, Maryland, showing that the applicant was admitted to the hospital for heart surgery on October 15, 2001, and was discharged on November 9, 2001, with follow-up visits to referred physicians;
3. Pay stubs from [REDACTED] Inc., Beverly, Massachusetts, indicating that the applicant received wages from the company from February 2, 2003 to October 17, 2003; and,
4. A copy of the applicant's El Salvadoran passport that indicates it was issued to him in El Salvador on March 30, 2000.

The applicant had previously submitted sufficient evidence to establish his qualifying physical presence in the United States since March 9, 2001. The applicant has established that he has met the continuous physical presence criteria described in 8 C.F.R. §§ 244.2(c). Consequently, the director's decision to withdraw TPS will itself be withdrawn and the application will be approved.

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 met this burden.

ORDER: The appeal is sustained and the application is approved.