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**U.S. Citizenship
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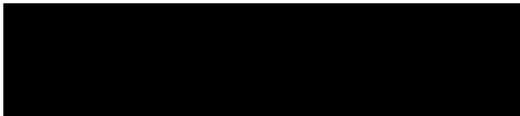
Office: VERMONT SERVICE CENTER

Date: NOV 06 2007

[EAC 01 200 56658]
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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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's re-registration application was denied, and his Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The case is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further consideration and action.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status on September 6, 2001. The applicant submitted a re-registration application on March 3, 2005. The director denied the re-registration application and issued a Notice of Intent to Withdraw on September 14, 2005, because the applicant failed to report for fingerprinting as scheduled. The director withdrew the applicant's Temporary Protected Status on March 22, 2006, when it was determined that the applicant had failed to respond to the director's request for evidence.

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner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

On September 14, 2005, the director notified the applicant that his Temporary Protected Status would be withdrawn unless the applicant submitted evidence and/or an explanation for his failure to report for Biometrics as scheduled.

In response, the applicant stated that he had just received the notice for him to appear for Biometrics because the postman had placed the letter in the mailbox for the 1st floor apartment, and that he resides in a 2nd floor apartment. The applicant also requested that he be allowed to reschedule an appointment for Biometrics.

The director concluded that the applicant had failed to respond to the request for evidence and withdrew the applicant's TPS on March 22, 2006. Counsel states that the applicant, through no fault of his own, did not receive the notice to appear for Biometrics until after the scheduled date, and that he has been doing everything in his power to reschedule the appointment.

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)

The record of proceedings indicates that the applicant responded to the director's Notice of Intent to Withdraw on March 10, 2006, which is before March 22, 2006, the date in which the TPS application was withdrawn. It is also noted that the applicant states on appeal that he missed the fingerprint appointment through no fault of his own; and that he has done all in his power to provide the service center with an explanation, and to request that the appointment be rescheduled. In this case, the applicant has provided an explanation for his failure to re-register and it does not appear that the applicant "willfully" failed to re-register within the prescribed time period. However, it also appears that the Federal Bureau of Investigation (FBI) report results show that the applicant's fingerprints were taken on April 4, 2007. The report shows that the applicant was arrested on or about February 3, 2006, and charged with criminal trespass, a possible felony. Therefore, 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.

The director's denial of the initial application has been remanded for a new decision. The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being remanded, this decision will also be remanded to the director for further adjudication. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

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 re-registration application is remanded for further action consistent with the director's new decision on the initial application.