



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE

OFFICE: NEBRASKA SERVICE CENTER

DATE: **JAN 09 2008**

[LIN 01 185 51144]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center (NSC), and the case is now before the Administrative Appeals Office on appeal.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 (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on August 25, 2001. The director subsequently withdrew the applicant's TPS status on February 6, 2004, when it was determined that the applicant had failed to submit the required annual re-registration subsequent to the approval of her 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Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner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) of the Act.

In a notice of intent to withdraw (ITW) dated October 18, 2003, the director notified the applicant that her TPS status would be withdrawn unless she could provide evidence that she re-registered for TPS between September 9, 2002 and November 12, 2002. The applicant, in response, submitted a copy of an inquiry form (Form G-731N) dated March 10, 2003, regarding the status of a re-registration application submitted on or about October 3, 2002, and a photocopy of a letter to the applicant from the Nebraska Service Center dated April 23, 2003, informing the applicant that her Form I-765 had been rejected and returned to her in November 2002.

The director concluded that the applicant had failed to overcome the grounds stated in the NOID and withdrew the applicant's TPS on February 6, 2004.

On appeal, counsel asserts that the applicant submitted re-registration applications for both herself and her daughter on October 3, 2002. Counsel explains that the applicant's daughter, [REDACTED] received two notices from the NSC acknowledging receipt of a Form I-765, Application for Employment Authorization, on November 14, 2002, but that the applicant did not receive any correspondence from the NSC acknowledging receipt of her re-registration application. Counsel submits the following:

1. A photocopy of a notice dated May 25, 2001, informing the applicant that her initial TPS application was approved valid from August 25, 2001 to September 9, 2001.
2. A photocopy of the applicant's Employment Authorization Card valid from August 25, 2001 to September 9, 2002.
3. A photocopy of the applicant's Form I-821 and Form I-765 dated September 9, 2002.
4. A photocopy of a United States Postal Service money order receipt dated October 2, 2002.
5. Two photocopies of notices from the NSC acknowledging receipt of a Form I-765 from Stephanie P. Mejia on November 14, 2002, under receipt number LIN 03 027 50911.

6. A photocopy of a letter from the NSC dated April 23, 2003, informing the applicant that her Form I-765 had been rejected and returned to her in November 2002.

The director may withdraw the status of an alien granted TPS 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 TPS. 8 C.F.R. § 244.17(c).

Citizenship and Immigration Services (CIS) computer records indicate that the applicant and her daughter, [REDACTED], did attempt to file Form I-765 but both applications were rejected and returned on November 5, 2002, because of incorrect fee. Although the record indicates that [REDACTED] subsequently re-submitted her Form I-765 with the correct fee on November 20, 2002, there is no indication in the applicant's file or in CIS computer records that the applicant ever re-filed the application with the correct fee.

In this case, the record shows that the applicant attempted in good faith to re-register for the 2002-2003 period, and has established that she did not "willfully" fail to re-register for that period. There are no other known grounds of ineligibility; therefore, the director's decision will be withdrawn and the applicant's Temporary Protected Status will be approved.

An alien applying for TPS 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 director's decision is withdrawn and the appeal is sustained.