

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

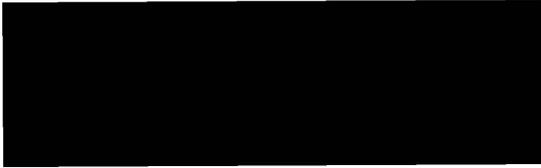
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M₁



FILE:



Office: PORTLAND

SEP 16 2008

IN RE:

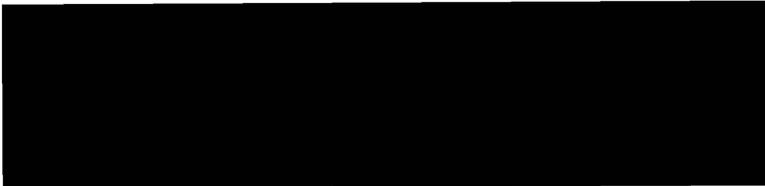
Applicant:



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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the District Director, Portland, Oregon, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 was ineligible for such status and, therefore, withdrew the applicant's Temporary Protected Status.

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, or at any time thereafter becomes ineligible for such status. 8.C.F.R. § 244.14(a)(1).

On appeal, counsel for the applicant states that the applicant is eligible for TPS.

The record reflects that the TPS application was approved by the Director, California Service Center, on December 19, 2002. However, on April 10, 2008, the district director notified the applicant that upon further review of his application and his immigration record, he was found to be ineligible for TPS. The district director stated that the record reflects that on July 20, 1999, the applicant was determined by an Immigration Judge to have knowingly filed a frivolous asylum application after being provided notice of the consequences of such an action, and therefore, he was ineligible for any benefit under the Act, including Temporary Protected Status. The Immigration Judge's decision was affirmed without opinion by the Board of Immigration Appeals (BIA) on June 20, 2002 and the applicant's petition for review was denied on July 19, 2004 by the United States Court of Appeals for the Ninth Circuit.

On appeal, counsel states that the applicant remains eligible for TPS. According to counsel, there are no grounds for the director's decision to withdraw the applicant's TPS status. Counsel also states that the applicant had been subjected to the actions of a notario and an unscrupulous attorney, and that he did not **knowingly** file a frivolous asylum application (emphasis added). However, CIS records reflect that the applicant was warned, through written and oral notice, of the consequences of filing a frivolous asylum application. The Immigration Judge determined, and the applicant conceded in a subsequent motion to reopen, that he had lied and therefore knowingly filed a frivolous asylum application.

Section 208(d)(6) of the Act states:

(6) Frivolous applications—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefit under this Act, effective as of the date of a final determination of such application.

Contrary to counsel's contention, pursuant to 8.C.F.R. § 244.14(a)(1) the applicant's Temporary Protected Status can be withdrawn because the applicant became ineligible for such status on July 19, 2004, the date the United States Court of Appeals, Ninth Circuit, upheld the Immigration Judge's finding that the applicant had knowingly filed a frivolous asylum application. Thus, the district director's decision to withdraw the applicant's Temporary Protected Status was correct. Consequently, the director's decision is affirmed.

ORDER: The appeal is dismissed.