



U.S. Citizenship
and Immigration
Services

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ML

[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date: APR 04 2007

[SRC 01 216 56769 & WAC 05 214 71496]

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 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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a 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 record reveals that the applicant filed an initial TPS application on May 22, 2001, under CIS receipt number SRC 01 216 56769. The Texas Service Center director approved that application on June 03, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, under CIS receipt number WAC 05 214 71496, and indicated that he was re-registering for TPS.

The California Service Center director simultaneously withdrew the applicant's TPS and denied the re-registration application, on March 6, 2006. The director noted that the applicant failed to submit evidence requested in an August 30, 2005, notice of intent to withdraw, for the final court dispositions of an arrest by the Police Department, Houston, Texas, on February 7, 2004, for "Poss Marij < 2oz"; and an arrest by the Police Department, Houston, Texas, on April 17, 2004, for "tampering with Govt Rcord Lic/Sealdefraud/Har". The director noted that the notice of intent to withdraw was mailed to the applicant's last known address and was not returned as undeliverable. The director, therefore, deemed the re-registration application abandoned. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The director, simultaneously, withdrew the applicant's temporary protected status as the applicant failed to comply with re-registration requirements for TPS. Since there was no appeal available for the re-registration application, the AAO will only consider the appeal of the director's decision to withdraw TPS.

On appeal, on behalf of the applicant, counsel states that the applicant did not submit the evidence requested pertaining to the arrests because the applicant never received the request, and requests another opportunity for the applicant to submit the court dispositions. It is noted that counsel indicated that he is sending a brief and /or evidence to the AAO within 30 days; however, the record does not reflect that counsel or the applicant has submitted a brief or evidence. Therefore, the record must be considered complete.

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 for such status" or if "the alien fails, without good cause, to re-register ... in a form and manner specified by" the Secretary. The Regulations under 8 C.F.R. § 244.14(a)(1) and (3) further states that the director may withdraw the status of an alien granted TPS if, "the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status," or if, "the alien fails without good cause to re-register".

As noted above, on August 30, 2005, the director notified the applicant of the intent to withdraw his temporary protected status because the record reflected that the applicant had been arrested for two or more misdemeanors. The applicant was granted 30 days to submit final court dispositions. As the applicant failed to submit the requested court dispositions, the director determined the applicant had failed to re-register for TPS and, simultaneously, withdrew the applicant's temporary protected status.

After a review of the record, the Chief, AAO, concurs with the director's withdrawal decision. The record reflects that the notice of intent to withdraw was mailed to the applicant's last known address which he still maintains at time of appeal. The notice was not returned as undeliverable. Therefore, the applicant has not overcome the findings of the director pursuant to 8 C.F.R. § 244.14.

The AAO also notes that the final court dispositions for the arrests described above are not in the record of proceeding. CIS must address this arrest in any future proceedings.

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.