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FILE:



Office: Vermont Service Center

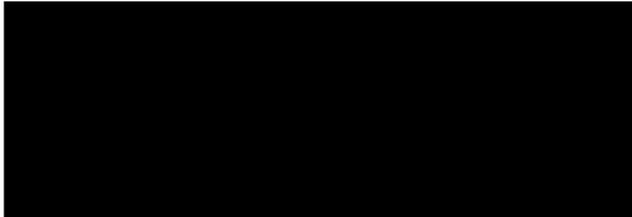
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IN RE:

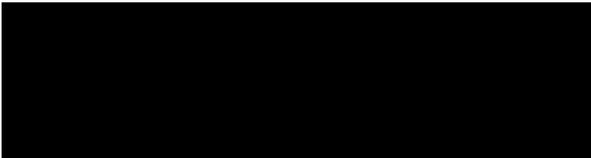
Applicant:



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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal.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

The applicant claims to be a 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.

The director withdrew the applicant's status because the applicant had departed the United States without parole during the required period.

On appeal the applicant asserts that his absence was brief, casual and innocent. Counsel stated that a full brief would be submitted within 30 days. As of this date, nothing further has been submitted and the record will be considered complete.

The regulation at 8 C.F.R. § 244.14, Withdrawal of Temporary Protected Status, states:

- (a) Authority of the director. The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following:
 - (1) The alien was not in fact eligible at the time such was granted, or at any time thereafter becomes ineligible for such status;
 - (2) The alien has not remained continuously present in the United States from the date the alien was first granted TPS;
 - (3) The alien fails without good cause to register with the Attorney General annually within thirty days before the end of each 12-month period after the granting of TPS.

After the grant of Temporary Protected Status, the alien must remain continuously physically present in the United States under the provisions of section 244(c)(3)(B) of the Act. 8 C.F.R. § 244.15.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

By the applicant's own admission he traveled out of the United States on December 23, 2003, without permission, was absent from the United States for 121 days, and re-entered without inspection on April 22, 2004. In this case the applicant has not submitted any evidence to establish the actual duration of his absence, and has not provided an explanation for his absence. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The applicant failed to remain continuously present in the United States after he had been granted TPS. 8 C.F.R § 244.14(a)(2). The applicant has failed to establish that his absence was brief, casual and innocent. Therefore, the director's decision to withdraw TPS will be affirmed.

After review of the record the AAO agrees with the director's decision and will affirm the withdrawal. 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 failed to meet that burden.

ORDER: The appeal is dismissed.