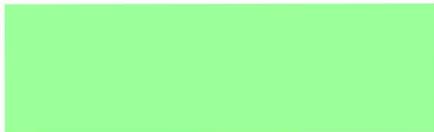




U.S. Citizenship
and Immigration
Services

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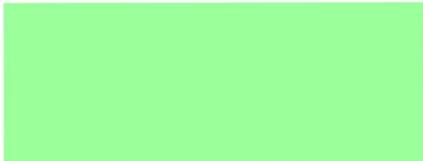
DATE: **SEP 16 2013** Office: VERMONT SERVICE CENTER

FILE:

IN RE: Applicant:

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

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter 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 was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant was deemed inadmissible under section 212(a)(6)(C)(i) of the Act, and was provided the opportunity to file a Form I-601, Application for Waiver of Grounds of Inadmissibility. The applicant, submitted the Form I-601 without a fee or a fee waiver request. The director withdrew TPS as the Form I-601 was improperly filed and thereby the applicant remained inadmissible to the United States.

On appeal, counsel asserts that he had submitted the proper fee along with the Form I-601 in response to the Notice of Intent to Deny. Counsel states that the check has not been cashed and provides a copy of the check stub.

Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible. Section 212(a)(6)(C)(i) of the Act.

Except as provided in clause (iii), the Secretary may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Section 244(c)(2)(A)(ii) of the Act.

If an alien is admissible on grounds which may be waived, he or she shall be advised of the procedures for applying for a waiver of grounds of inadmissibility on Form I-601. 8 C.F.R. § 244.3(b).

The record reflects that on September 10, 2000, the applicant applied for admission into the United States by claiming to be a citizen of the United States. The applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act. As noted above, such ground of inadmissibility may be waived.

On August 8, 2012, the applicant was given the opportunity to file a Form I-601 with the appropriate fee or fee waiver request. The applicant, in response, submitted the Form I-601; however, neither a fee nor a fee waiver request was provided. Accordingly, on January 10, 2013, the director denied the TPS application.

On appeal, counsel asserts, "[o]nce again I ask that the I-601 be admitted. Enclosed is a replacement check for the application fee." Neither the record of proceedings nor the U.S. Citizenship and Immigration Services electronic database indicates that a "replacement check" for the Form I-601 has been received.

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The instructions to the Form I-601 are very clear in indicating that the application must be accompanied by a fee or that a fee waiver may be requested. The applicant, however, has failed to provide the appropriate fee or a fee waiver request. Therefore the applicant remains inadmissible to the United States. Consequently, the director's decision to withdraw TPS will be affirmed.

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 this burden.

ORDER: The appeal is dismissed.