

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

U.S. Department of Homeland Security  
20 Mass Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

*M*

[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date: **SEP 23 2005**

[EAC 01 169 50111]

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, Director  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States without a lawful admission or parole in September 1998. The Director, Vermont Service Center, approved the application for Temporary Protected Status (TPS) on March 1, 2002. The Director, Nebraska Service Center, subsequently withdrew the applicant's Temporary Protected Status on March 3, 2004, when it was determined that the applicant had failed to provide evidence to establish that he had submitted his annual re-registration.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

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).

On September 22, 2003, the applicant was requested to submit evidence that he had re-registered and been approved for an extension of TPS continuously each year. The applicant failed to respond to the notice.

The director concluded that the applicant had failed to overcome the grounds stated in the Notice of Intent to Withdraw and withdrew the applicant's TPS on March 3, 2004. On appeal, the applicant provided evidence in an attempt to establish that he had re-registered for TPS.

On appeal, counsel states that the applicant thought he had reregistered by filing for his Employment Authorization. According to counsel, the applicant did not understand the distinction between Temporary Protected Status and his work authorization card. Counsel also submits an August 15, 1991 Memorandum from the then Commissioner, Immigration and Naturalization Service, which states that, "An alien's TPS should be withdrawn only when the alien willfully fails to re-register."

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

In this case, it does not appear that the applicant "willfully" failed to re-register. Therefore, the director's decision to withdraw the applicant's Temporary Protected Status, will, itself, be withdrawn.

The case will be remanded and the director shall fully adjudicate the application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to El Salvadorans.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. §1361.



**ORDER:** The director's decision is withdrawn. The case is remanded for further action.