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U.S. Citizenship
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Services

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FILE:

OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAR 26 2007

[WAC 02 223 53442]

[WAC 05 141 72074]

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:

Self-represented

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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and the case is now before the Administrative Appeals Office on appeal.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

The applicant claims to be 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, on February 20, 2003. The director subsequently withdrew the applicant's TPS status on August 5, 2006, after determining that the applicant had failed to submit Form I-601, Application for Waiver of Grounds of Inadmissibility, based on fraud and misrepresentation for falsely claiming to be a United States citizen, and to submit final court dispositions of all of his arrests, as had been requested in the Notice of Intent to Withdraw (ITW) dated January 16, 2006. Within the same decision, the director denied the applicant's re-registration application, filed on February 18, 2005, under Citizenship and Immigration Services (CIS) receipt number WAC 05 141 72074, because the underlying TPS was withdrawn based on the applicant's failure to timely and/or adequately respond to the ITW.

The director may withdraw the status of an alien granted TPS at any time if it is found 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. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

The record contained in file [REDACTED] indicates that on August 11, 1998, the applicant, under the name of [REDACTED] was encountered at his place of employment and subsequently arrested for working without authorization. He claimed at that time that he is a citizen and national of Mexico. A Record of Deportable/Inadmissible Alien, Form I-213, was issued on August 11, 1998. The applicant requested voluntary return to Mexico. The record further shows that Form I-213 was issued on April 29, 2000, indicating that the applicant, under the name of [REDACTED] applied for admission into the United States at the San Ysidro, California, Port of Entry on April 29, 2000, claiming to be a United States citizen, and that he was born in San Fernando, California. In a sworn statement before an officer of the Service, the applicant admitted that he was born in Mexico, that he was returning to the United States after spending one month in Mexico visiting his sick father, and that he did not possess the proper documentation to enter or remain in the United States. The applicant was found inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act [as an alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act], and pursuant to section 212(a)(7)(A)(i)(1) of the Act [as an immigrant who at the time of application for admission was not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act]. The applicant was expeditiously removed to Mexico on April 29, 2000.

The applicant was requested in a Notice of Intent to Withdraw dated January 16, 2006, to submit an Application for Waiver of Grounds of Inadmissibility, Form I-601, and final court dispositions of all of his arrests. Because the applicant failed to submit the requested documents, the director withdrew the applicant's TPS status.

The applicant makes no statement on appeal. He checked the block: "I am submitting a separate brief and/or evidence with this form." However, neither a brief nor evidence accompanied the appeal form.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The applicant has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Nor did the applicant submit new evidence, on appeal, to establish eligibility. Accordingly, the appeal will be summarily dismissed.

It is noted that the record of proceeding contains an El Salvadoran birth certificate and English translation; however, the certificate was not accompanied by photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). However, it is also noted that the nationality the applicant claimed and/or established at the time he first came into contact with the Service (now, the Department of Homeland Security) was that of Mexico. Therefore, it appears that the applicant's "operative nationality" was not that of a TPS-designated country as held in *GENCO Op. 92-34* (August 7, 1992). *See, also, Matter of Ognibene*, 18 I&N Dec. 425 (BIA 1983); *Chee Kin Jang v. Reno*, 113 F. 3d 1074 (9th Cir. 1997).

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 appeal is summarily dismissed.