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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

M1



DATE: **MAR 19 2012** 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:

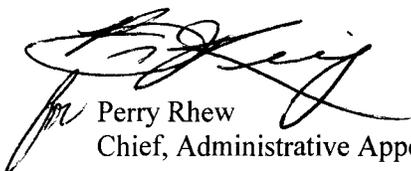


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 case will be remanded for further consideration and action.

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 director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined 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. 8 C.F.R. § 244.14(a)(1).

On August 15, 2010, the applicant filed a re-registration application and answered "yes" to the question, "[h]ave you EVER served in, been a member of, assisted in or participated in any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerrilla group, militia, or insurgent organization?" The applicant also answered "yes" to the question, "[h]ave you ever received any type of military, paramilitary, or weapon training.?"

On November 17, 2010, a notice was issued, which informed the applicant that the re-registration application was incomplete as he failed to answer all of the questions at Part 4 of the application. The applicant was advised that all questions and all fields of information must be answered and the form must contain his signature. The applicant was also requested to submit answers to the questions outlined in the notice regarding his military service. The applicant was given 33 days to submit a completed Form I-821.

In withdrawing the applicant's TPS on April 27, 2011, the director concluded that the applicant had failed to respond to the notice of November 17, 2010.

Counsel, on appeal, asserts that a response to the notice was timely submitted. As evidence counsel provides a copy of a FedEx US Airbill dated December 16, 2010, along with a tracking receipt, which indicates that an item was delivered to the address of the Vermont Service Center on December 17, 2010, at 11:03 a.m. Counsel asserts that she is resubmitting the evidence that was received at the Vermont Service Center on December 17, 2010.

Accordingly, the case will be remanded so that the director may review the documents submitted and make a determination to the applicant's TPS eligibility. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS. 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 case is remanded for appropriate action consistent with the above discussion and entry of a new decision.