

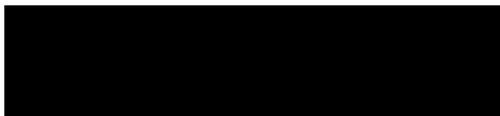
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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DATE: Office: VERMONT SERVICE CENTER FILE:   
**MAR 23 2012**

IN RE: Applicant: 

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

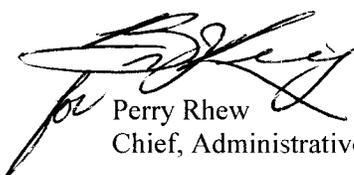
ON BEHALF OF APPLICANT: Self-represented

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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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 (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 TPS because he failed to obtain advance parole prior to his departure from the United States and he, therefore, had not remained continuously physically present in the United States as required under 244(c)(3)(B) of the Act.

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).

The regulation at 8 C.F.R. § 244.15 provides:

- (a) After the grant of Temporary Protected Status, the alien must remain continuously physically present in the United States under the provisions of 244(c)(3)(B) of the Act. The grant of Temporary Protected Status shall not constitute permission to travel abroad. Permission to travel may be granted by the director pursuant to the Service's advance parole provisions. There is no appeal from a denial of advance parole.
- (b) Failure to obtain advance parole prior to the alien's departure from the United States may result in the withdrawal of Temporary Protected Status and/or the institution or recalendering of deportation or exclusion proceedings against the alien.

The term brief, casual and innocent absence, as defined in 8 C.F.R. §244.1(1), means a departure from the United States in which each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The record reflects that the applicant filed his initial TPS application [REDACTED] on May 4, 2001, and was assigned alien registration number [REDACTED]. The application was approved on March 12, 2004.

According to the Form I-213, Record of Deportable/Inadmissible Alien, on March 24, 2005, the applicant was detained by the Texas Highway Police and subsequently turned over to the U.S. Border Patrol. The applicant indicated that he departed El Salvador on February 28, 2005, and traveled by bus to Guatemala and to the Mexican border. The applicant indicated that he arrived in

██████████ on or about March 19, 2005. On March 20, 2005, he swam across the ██████████ and illegally entered the United States near Hidalgo, Texas. The applicant was assigned alien registration number ██████████

The director determined that the applicant had not maintained continuous physical presence in the United States because he failed to obtain advance parole prior to departing the United States. Accordingly, on February 7, 2011, the director withdrew the applicant's TPS.

On appeal, the applicant asserts, in pertinent part:

In 2004 I solicit a permission to re-entry the United States due to an emergency that occurred back home, my mother became very ill, the doctor informed me that she had few days to live, I requested a re-entry permission with the Form I-131, but it was denied, since the doctor inform me that my mother had only days to live, I took off and saw my mother for the last time unfortunately she died the day after I have arrived to El Salvador, I burried [sic] my mother and came back the following week to the United States.

On January 25, 2012, the AAO sent a notice to the applicant, advising him that the record did not contain any evidence of a filed Form I-131, Application for Travel Document, or that the form had been denied. The applicant was also advised that he had not submitted any credible evidence to support his claim that he had returned to the United States the week after he had buried his mother. The applicant was provided 30 days in which to submit: 1) a certified copy of his mother's death certificate with English translation; and 2) evidence of his travel itinerary from the United States to El Salvador.

In response, the applicant submits a certified copy of his mother's death certificate with English translation, which indicates that the applicant's mother passed away on April 18, 2003. The applicant also submits a travel itinerary from a travel agency in ██████████ which indicates that the applicant traveled via ██████████ on September 26, 2004, from ██████████ to ██████████

The death certificate, however, does not corroborate the statements made by the applicant on appeal. The death of the applicant's mother occurred 17 months prior to the applicant's departure from the United States on September 26, 2004.

Relief is provided for absences due to emergencies and absences approved under the advance parole provisions. In the instant case, the applicant was not approved advance parole for his 2004 departure from the United States and has not provided any credible evidence to reflect that said departure was due to an emergency.

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<sup>1</sup> The applicant's TPS applications and supporting documents have been consolidated into ██████████

The applicant's six-month stay outside of the United States interrupted his "continuous physical presence" in the United States. Therefore, the applicant has failed to maintain continuous physical presence in the United States since March 12, 2004, pursuant to 8 C.F.R. § 244.14(a)(2). Consequently, the director's decision to withdraw the applicant's 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.