



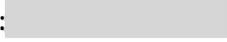
**U.S. Citizenship
and Immigration
Services**

(b)(6)



Date: **MAY 20 2015** Office: VERMONT SERVICE CENTER

FILE: 

I-290B: 

IN RE: Applicant: 

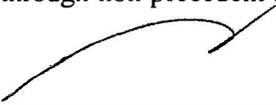
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (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.


Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn and an application for re-registration was simultaneously denied by the Director, Vermont Service Center. The applicant has appealed the decision and the matter is now before the Administrative Appeals Office (AAO). The appeal will be remanded.

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. § 1254a. On March 18, 2014, the director withdrew TPS and denied the re-registration application because the applicant had failed to respond to a notice dated October 16, 2013, which requested documentation to establish that he has remained continuously present in the United States from the date he was first granted TPS. See *Decision of the Director*, dated March 18, 2014.

The record indicates that on July 29, 2013, the applicant filed Form I-821, Application for Temporary Protected Status (Form I-821) to re-register for TPS status, together with Form I-765, Application for Employment Authorization (Form I-765). On the Form I-765, the applicant indicated that his last date of entry into the United States was January 1, 2013. As such, the director issued a notice dated October 16, 2013 to request that the applicant submit evidence to show that he was granted permission to leave the country. As the applicant failed to respond to this notice, the director denied the re-registration application and withdrew TPS based on the applicant's failure to demonstrate that he had permission to leave the United States prior to his January 1, 2013 entry or submit documentation establishing the purpose and duration of his absence.

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 appeal, which was filed on April 21, 2014 and received at the AAO on October 23, 2014, the applicant states that he never received the notice of October 16, 2013 as he changed his residence, asserts that he did not depart the United States and reenter on January 1, 2013, and submits evidence in support of this assertion.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state as designated by the Attorney General, now the Secretary, Department of Homeland Security (Secretary), is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Secretary may designate;

- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until September 9, 2016, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by U.S. Citizenship and Immigration Services (USCIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On appeal, the applicant submits the following:

- A copy of the applicant's passport, indicating that the applicant was paroled into the United States on April 28, 2011 and January 13, 2012, pursuant to approved advance parole permission; there is no indication in the passport that the applicant reentered the United States on January 1, 2013.
- Copies of the applicant's bank statements from December 18, 2012 to January 16, 2014, indicating continuous withdrawal transactions during this period; the bank statements indicate that the applicant made ATM withdrawals on December 24, 2012, December 26, 2012, December 28, 2012, and January 2, 2013, indicating that the applicant was present in the United States on these dates.
- A letter from the applicant's former employer, indicating that he was employed from June 4, 2008 until May 2, 2013.
- Three affidavits, including an affidavit from the applicant's former supervisor stating that the applicant was physically present in the United States on January 1, 2013.
- Forms W-2, Wage and Tax Statement, for 2013.
- A copy of the applicant's federal income tax return for 2013

The applicant, on appeal, has submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during requisite periods, specifically surrounding January 1, 2013. He has, thereby, established that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the director's decision to deny the re-registration application and to withdraw TPS will be withdrawn.

The validity period of the applicant's fingerprint check, however, has expired.

Accordingly, the case will be remanded for the purpose of sending the applicant a fingerprint notification form, and affording him the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i).

(b)(6)



NON-PRECEDENT DECISION

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ORDER: The case is remanded to the director for further action consistent with the above and entry of a decision.