



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF J-R-

DATE: AUG. 26, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

APPLICATION: FORM I-821, APPLICATION FOR TEMPORARY PROTECTED STATUS

The Applicant, a native and citizen of El Salvador, seeks review of a decision withdrawing the Applicant's Temporary Protected Status (TPS). *See* Immigration and Nationality Act (the Act) section 244, 8 U.S.C. § 1254a. TPS provides lawful status and protection from removal for foreign nationals, of specifically designated countries, who register during designated periods, satisfy country-specific continuous residence and physical presence requirements, are admissible to the United States, are not firmly resettled in another country, and are not subject to certain criminal- and security-related bars.

In June 2015, the Director, Vermont Service Center, issued a notice of intent to deny (NOID) to the Applicant, informing her that the Form I-821, Application for Temporary Protected Status, submitted for re-registration for TPS, was incomplete. The Applicant did not respond to the NOID, and in November 2015, the Director withdrew TPS because the Applicant did not submit a properly completed Form I-821.

The matter is now before us on appeal. On appeal, the Applicant states that she never received the NOID, and submits a completed Form I-821 with original signature.

Upon *de novo* review, we will remand the matter to the Director for further proceedings consistent with this decision.

### I. LAW

The Applicant is seeking TPS based on an application for re-registration or renewal of TPS benefits. The Director may withdraw the status of an applicant granted TPS under section 244 of the Act at any time if it is determined that the applicant 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). 8 C.F.R. § 244.17 provides:

- (a) Aliens granted Temporary Protected Status must re-register periodically in accordance with USCIS instructions. Such registration applies to nationals of those foreign states designated or redesignated for more than one year by DHS. Applicants for periodic re-registration must apply during the registration period provided by USCIS . . . .

The regulation at 8 C.F.R. § 244.9(c), states, in relevant part:

Failure to timely respond to a request for information . . . without good cause, will be deemed an abandonment of the application and will result in a denial of the application for lack of prosecution. Such failure shall be excused if the request for information . . . was not mailed to the applicant's most recent address provided to the Service.

## II. PROCEDURAL HISTORY AND EVIDENCE OF RECORD

The Applicant, a native and citizen of El Salvador, seeks to renew her TPS. The record indicates that the Applicant initially applied for TPS in 2001, which was granted, and subsequently maintained that status through applications to re-register or renew TPS. In March 2015, the Applicant again filed Form I-821 to re-register her TPS status.

The Applicant did not answer all the questions on the Form I-821 that she submitted for re-registration. In June 2015, the Director issued a NOID to advise her that her application was incomplete as she did not answer all of the questions in Parts 2, 3, and 4 of the application. The Applicant was informed that all questions, and all fields of information, must be answered and the form must contain her signature. The Applicant was given 33 days to submit a completed Form I-821.

The record indicates that the Applicant used two different addresses. On the Applicant's Form I-821, the Applicant listed her address as being in care of her granddaughter at her granddaughter's address. On the Applicant's Form I-765, Application For Employment Authorization, which she submitted with her Form I-821, the Applicant listed an address to a post office box. The Director sent the NOID to the post office box address listed on the Applicant's Form I-765.

The Applicant did not respond to the NOID. The Director withdrew the Applicant's TPS in November 2015, because the Applicant did not submit a properly completed Form I-821.

On appeal, the Applicant claims that she never received the NOID, and submits a properly completed Form I-821, as requested in the NOID.

We have reviewed all the evidence in the record of proceeding.

## III. ANALYSIS

As noted above, the record indicates that the Applicant used two addresses. On appeal, the Applicant stated that she does not speak English well, and listed her granddaughter's mailing address on her Form I-821 so that her granddaughter could promptly read any notifications from the Service Center. The record reflects that, instead of sending the NOID to the Applicant's address as stated on her Form I-821, the Director sent it to the post office box address listed on the Applicant's Form I-765. The Applicant claims she never received the NOID.

According to 8 C.F.R. § 244.9(c), the Applicant's failure to provide a timely response to the Director's June 2015 NOID can be excused if the NOID was not mailed to the Applicant's most recent address provided to the Service. The most recent address that the Applicant provided to the Service on her Form I-821 was her granddaughter's mailing address; however, that address differed from the post office box address that the Applicant provided to the Service on her Form I-765, which was submitted in conjunction with her Form I-821.

Nevertheless, the Director did not send the NOID, which pertained to the Form I-821, to the address the Applicant provided on the Form I-821. Furthermore, the Applicant has now submitted a properly completed and signed Form I-821. As such, we remand the matter to the Director for adjudication of the Form I-821 on the merits.

#### IV. CONCLUSION

The case will be remanded to the Director for further adjudication of the application. 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 decision of the Director, Vermont Service Center, is withdrawn. The matter is remanded to the Director, Vermont Service Center, for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

Cite as *Matter of J-R-*, ID# 17799 (AAO Aug. 26, 2016)