



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

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

In Re: 22204345

Date: AUG. 15, 2022

Appeal of Texas Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant seeks to re-register for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

The Director of the Texas Service Center denied the application, concluding that the Applicant was not eligible to re-register for TPS because his TPS had been previously withdrawn. On appeal, the Applicant states that the Director's decision was in error and reasserts eligibility.

Upon *de novo* review, we will dismiss the appeal. There is no basis for the Applicant to re-register for TPS absent favorable reconsideration of the TPS withdrawal decision, which is not before us.

Individuals who were granted TPS must thereafter re-register their status during the subsequent registration periods provided by U.S. Citizenship and Immigration Services (USCIS) in accordance with USCIS instructions. 8 C.F.R. § 244.17(a). To re-register, applicants must complete Form I-821 and submit all documentation as required in the form instructions or requested by USCIS. 8 C.F.R. §§ 244.6(a), 244.9(a).

The record reflects that USCIS withdrew the Applicant's TPS in 2015, concluding that he was no longer eligible for such status because he was convicted of two misdemeanor offenses committed in the United States. USCIS advised the Applicant in the withdrawal notice that he could appeal the adverse decision by filing Form I-290B, Notice of Appeal or Motion, and that if he did not appeal within 33 days the withdrawal would become final. The Applicant did not appeal. In 2020 he filed the instant TPS re-registration request explaining that he allowed his TPS to lapse because of ineffective assistance of counsel. He also asserted that he was no longer barred from TPS on criminal grounds, because a state court recently vacated one of his misdemeanor convictions.

As stated, the Director denied the request concluding that the Applicant did not establish eligibility for TPS re-registration. On appeal, the Applicant reasserts that his failure to re-register for TPS after 2015 resulted from ineffective assistance of counsel and that "equitable tolling of the deadline for renewal filing" is therefore warranted.

We acknowledge the Applicant's assertions; however, the record reflects that the Director denied his re-registration request not because his Form I-821 was filed untimely, but rather because the Applicant did not have TPS to re-register when he filed it. The Applicant has not overcome this denial ground on appeal.

As stated, the Applicant is seeking TPS based on an application for re-registration or extension of TPS benefits. The relevant notices published in the Federal Register in 2016 and 2018¹ provide that TPS re-registration is limited to persons who have previously registered for TPS under the designation of El Salvador and whose applications have been granted. While TPS beneficiaries who failed to timely re-register for TPS during the previous registration periods for "good cause" may later file Form I-821 to extend their TPS benefits, the extensions do not apply to "any beneficiary from whom TPS had been finally withdrawn."² Lastly, Form I-821 instructions specifically provide that applicants may re-register for TPS only if they "*currently have TPS*" (emphasis added).³ The Applicant did not have TPS when he filed the instant Form I-821 in 2020 because his TPS had been withdrawn in 2015. Consequently, there is no basis for the Applicant to re-register for TPS.

We recognize the Applicant's claim that his previous counsel was ineffective, and that he is no longer barred from TPS on criminal grounds. However, as discussed, the Applicant is not eligible to re-register for TPS at this time because he currently does not have such status.⁴

The burden of proof in these proceedings rests solely with the Applicant. Section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met that burden, because he has not established eligibility for TPS re-registration. His application will therefore remain denied.

ORDER: The appeal is dismissed.

¹ See *Extension of the Designation of El Salvador for Temporary Protected Status*, 81 Fed. Reg. 44645, 44646 (July 8, 2016) (announcing a 60-day TPS re-registration period s from July 8, 2016, through September 6, 2016); *Termination of the Designation of El Salvador for Temporary Protected Status*, 83 Fed. Reg. 2654 (Jan. 18, 2018) (announcing a 60-day TPS re-registration period from January 18, 2018, through March 19, 2018).

² See *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan*, 84 Fed. Reg. 59403, 59405 (Nov. 4, 2019).

³ See Instructions for Form I-821, page 4, <https://www.uscis.gov/i-821>

⁴ The Applicant does not claim eligibility for late initial TPS filing pursuant to the regulations at 8 C.F.R. § 244.2(f)(2).