



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

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

In Re: 23377832

Date: DEC. 5, 2022

Appeal of Vermont Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, who is a Salvadoran national, 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 Vermont 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application, concluding that the Applicant was not eligible to re-register for TPS because his TPS had been previously withdrawn.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 asserts the criminal conviction the Director cited as the basis for the TPS withdrawal was dismissed for legal error and is invalid. He claims that he therefore was statutorily eligible for TPS at the time he filed for re-registration and the denial of his Form I-821 was improper.

The Applicant has the burden of proof to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

Individuals who were granted TPS must thereafter re-register such 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). The Applicant filed the instant re-registration request following the extension of TPS benefits for Salvadorans. The relevant notice published in the Federal Register provides in part that re-registration is limited to current beneficiaries under the TPS designation for El Salvador and those whose applications remain pending, and the extensions do not apply for any beneficiary for whom TPS has been finally withdrawn.<sup>1</sup> Furthermore, Form I-821 instructions explain that applicants may re-register if they “*currently have TPS and are re-registering*” (emphasis added).<sup>2</sup>

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<sup>1</sup> *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, Nepal, Nicaragua, and Sudan*, 84 Fed. Reg. 59403 (Nov. 4, 2019). The designation of El Salvador for TPS has been terminated effective on September 9, 2019. 83 Fed. Reg. 2654 (Jan. 18, 2018). However, the designation will continue for as long as preliminary injunction ordered by court in *Ramos, et al v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Sept. 14, 2020) remains in effect. See *Temporary Protected Status Designated Country: El Salvador*, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-el-salvador>.

<sup>2</sup> Page 4, Instructions for Form I-821, <https://www.uscis.gov/i-821>.

The record reflects that the Applicant was granted TPS in 2003. However, in 2016 the Director withdrew the TPS grant, concluding that the Applicant was no longer eligible for such status due to disqualifying criminal convictions. There is no evidence that the Applicant appealed the TPS withdrawal; instead, he subsequently reapplied for TPS re-registration. USCIS denied these applications explaining that the Applicant no longer had a status to re-register because his TPS had been withdrawn. In 2020, the Applicant filed the instant Form I-821 again seeking to re-register for TPS but, as with the previous filings the Director determined that the Applicant was ineligible to re-register because his TPS had been withdrawn.

The Applicant does not contest that he does not currently have TPS, and there is nothing in the record to indicate that his TPS has been reinstated or that the withdrawal decision is pending review on appeal. We acknowledge the Applicant's statement that his TPS was withdrawn in error; however, he has no basis to re-register for TPS absent a favorable reconsideration of the 2016 withdrawal decision, which is not before us.<sup>3</sup>

In conclusion, the Applicant did not have TPS when he filed the instant Form I-821 because his TPS had been withdrawn in 2016. Consequently, he is not eligible to re-register for TPS at this time and his Form I-821 remains denied.

**ORDER:** The appeal is dismissed.

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<sup>3</sup> The Applicant would need to seek reopening and reconsideration of that decision before the Director.