



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

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

In Re: 23417687

Date: DEC. 20, 2022

Appeal of Vermont Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant seeks review of a decision withdrawing his Temporary Protected Status (TPS) under section under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a, and denying his TPS re-registration request.

The Director of the Vermont Service Center denied the Applicant's re-registration application and withdrew TPS, concluding that the Applicant failed to re-register his status without good cause and did not establish the requisite continuous physical presence in the United States.

On appeal, the Applicant references previously submitted evidence and reasserts eligibility.

Applicants bear the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal because the Applicant has not met this burden.

I. LAW

The Applicant is seeking TPS based on an application for re-registration or renewal of TPS benefits. Individuals granted TPS must re-register periodically during a re-registration period provided by U.S. Citizenship and Immigration Services (USCIS) and in accordance with USCIS instructions. 8 C.F.R. § 244.17(a). USCIS may withdraw TPS at any time if the TPS recipient has not remained continuously physically present in the United States from the date they were first granted TPS or fails to re-register their status without good cause after the granting of TPS. 8 C.F.R. § 244.14(a)(2)-(3).

TPS recipients re-registering their status under the Salvadoran TPS designation must demonstrate, in part continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.¹

¹ *Designation of El Salvador Under Temporary Protected Status Program*, 66 Fed. Reg. 14214 (Mar. 9, 2001). The TPS designation has been extended several times, with the latest extension valid until March 9, 2018. The designation of El Salvador for TPS has been terminated effective on September 9, 2019. 83 Fed. Reg. 2654 (Jan. 18, 2018). However,

Continuously physically present means “actual physical presence in the United States for the entire period specified in the regulations,” but an applicant shall not be considered to have failed to maintain continuous physical presence because of “brief, casual, and innocent absences.” 8 C.F.R. § 244.1.

USCIS evaluates the sufficiency of all evidence according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.1(b). To meet their burden of proof applicants must provide supporting documentary evidence of eligibility apart from their own statements. *Id.*

II. ANALYSIS

The issues on appeal are whether the Applicant has established good cause for not re-registering for TPS in accordance with USCIS instructions during the 2010-2021 period and, if so whether he has demonstrated that he was continuously physically present in the United States for this entire period. We have reviewed the record of proceedings and for the reasons explained below conclude that the Applicant has not demonstrated he meets either requirement.

The record reflects that the Applicant, who was granted TPS in 2004, last re-registered his status in 2010. After the Applicant filed the instant Form I-821 in July 2021, the Director issued a notice of intent to deny giving him an opportunity to establish that he either re-registered or had a good cause not to re-register for TPS for the past 10 years, and that during that time he was continuously physically present in the United States. In response, the Applicant submitted a statement explaining that he did not comply with the re-registration requirements because he was taking care of his sick brother and did not have sufficient income to file the necessary immigration forms. He further stated that following his brother’s death he fell into depression and did not take any actions to resume his TPS benefits until he joined a church and was able to manage his symptoms. In support, he submitted evidence including a notarized statement signed by his girlfriend, his brother’s 2010 Form N-648, Certification for Disability Exceptions,² employment letters, paystubs, and income tax returns.

The Director found this evidence, which did not include medical documentation for the Applicant or his brother, insufficient to establish that the Applicant had good cause for not re-registering his TPS during the past 10 years. The Director further determined that the documentation was also inadequate to show that the Applicant was continuously physically present in the United States for the entire period required under the Salvadoran TPS designation, as he submitted only three pay stubs for the 2014-2015 timeframe and no evidence of his U.S. physical presence in 2019.

On appeal, the Applicant does not submit any additional evidence. He reiterates his previous statements and adds that he is illiterate and could not afford to hire someone to help him fill out the immigration forms. We acknowledge the Applicant’s explanation. However, given the 10-year period of time during which he did not re-register for TPS and insufficient evidence to corroborate his

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>.

² Applicants for naturalization file Form N-648 to request an exception to the English and civics testing requirements because of physical or developmental disability or mental impairment.

statements, we conclude that the Applicant has not overcome the Director's adverse determination. While the information in the Form N-648 indicates that the Applicant's brother had a physical disability as of 2010, the Applicant has not provided evidence that he was responsible for his brother's care at any time during the relevant 2010-2021 period. Rather, in a previously submitted statement the Applicant's girlfriend indicated that she and the Applicant took turns caring for the brother until 2010, which is the last year the Applicant re-registered his status prior to filing the instant Form I-821 in 2021. The Applicant does not submit documents to show that he continued to care for his brother after 2010, or that he was otherwise unable to re-register for TPS for that particular reason in the last 10 years.

The Applicant's claim that he lacked funds to pay for assistance and application fees does not establish good cause for noncompliance with the re-registration requirements, as there is no application fee to file the Form I-821 for re-registration and the associated biometrics fee can be waived for eligible applicants who submit a Form I-912, Request for Fee Waiver. *See* 8 C.F.R. § 244.17(a) (providing that re-registration applicants do not need to pay the fee that was required for initial registration except the biometric services fee, unless that fee is waived in the applicable form instructions); *see also Instructions for Form I-821*, <https://www.uscis.gov/i-821> (stating that TPS beneficiaries filing for re-registration are not required to pay the application fee and may request a waiver of the biometrics services fee). The Applicant therefore has not overcome this ground for the withdrawal of his TPS.

The Applicant does not address the Director's adverse determination concerning the continuity of his physical presence in the United States, nor does he submit supplemental documentation to cure the evidentiary deficiencies the Director identified. As such, the Applicant has not overcome this additional and independent basis for the withdrawal of his TPS.³

In conclusion, the Applicant has not established good cause for noncompliance with the TPS re-registration requirements during the 10-year period following his last re-registration in 2010, and he did not provide sufficient evidence to establish that he maintained continuous physical presence in the United States since that time until he filed the instant Form I-821 in July 2021. The Applicant therefore has not overcome the grounds for the withdrawal of his TPS, and his Form I-821 remains denied.

ORDER: The appeal is dismissed.

³ Issues or claims that are not raised on appeal are deemed to be "waived." *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).