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U.S. Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

[Redacted]

DEC 03 2003

File: [Redacted]
LIN 02 234 52110

OFFICE: NEBRASKA SERVICE CENTER

DATE:

IN RE: Applicant:

[Redacted]

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

PUBLIC COPY

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. §103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of Honduras who indicated on her application that she entered the United States on March 9, 1986, without a lawful admission or parole. The director withdrew the applicant's Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254, because he determined the applicant had failed to respond to a request to furnish evidence that she had re-registered for TPS during the period July 6, 2001 through July 5, 2002.

On appeal, the applicant states she did not receive the notice of intent to withdraw her temporary protected status. She claims she has no knowledge of the registration mentioned in the denial notice. The applicant states she has lived at her current address for the past six years, and she provides copies of correspondence mailed to her at that address. In addition, the applicant submits a copy of a receipt for certified mail which reflects that the postal service delivered an article of mail to the Nebraska Service Center on July 2, 2002.

The director may withdraw the status of an alien granted temporary protected status under section 244 of the Act at any time if it is determined that the alien failed without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of TPS. 8 C.F.R. § 244.14.

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 designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 Attorney General 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 TPS 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 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 CIS. 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).

The director stated in the January 14, 2003 withdrawal notice that the applicant had failed to respond to a December 3, 2002 request to furnish evidence to show that she had filed for re-registration for the period July 6, 2001 through July 5, 2002.

The applicant, on appeal, states she did not receive the notice of intent to withdraw her temporary protected status. She claims she has lived at the same address for six years. In addition, the applicant submits a copy of a receipt for certified mail for an article of mail delivered to the Nebraska Service Center on July 2, 2002.

The record reflects that the applicant filed the initial application for TPS on August 9, 1999. The application for TPS was approved on February 26, 2002. The applicant also re-registered for TPS in July 2000, July 2001 and July 2002.

Based on the evidence in the record of proceeding, it is concluded that the applicant did comply with the requirement to re-register for TPS in each of the designated years.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The director's decision is withdrawn. The applicant's appeal is sustained.