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U.S. Citizenship
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Services

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APR 08 2004

FILE:



Office: VERMONT SERVICE CENTER

Date:

IN RE:

Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The director's decision is withdrawn.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

The applicant is a native and citizen of Honduras who indicated on the application that he entered the United States on May 15, 1995. 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, for failure to respond to a request for information establishing that he had re-registered for TPS during the periods July 6, 2000 through July 5, 2001 and July 6, 2001 through July 5, 2002.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present in the United States since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite time period.

An alien who has been granted TPS must register annually with the district office or service center having jurisdiction over the alien's place of residence. 8 C.F.R. § 244.17(a).

On December 13, 2002, the director notified the applicant that his temporary protected status would be "withdrawn unless you can submit additional evidence to show that you re-registered on time or that you had a good reason for not re-registering." In response, the applicant stated that he had failed to re-register for TPS because his wife had filed an immigrant visa petition on his behalf in April 2001, and his attorney informed him that he did not have to re-register for TPS since his wife was a citizen of the United States and he would soon be able to adjust his status to that of a permanent resident. The director determined the applicant had failed to establish good cause for failure to re-register as required and he, therefore, withdrew the applicant's temporary protected status on February 27, 2003.

The applicant, on appeal, again asserts that he received legal advice from his attorney advising him that he did not have to re-register for TPS because he was the beneficiary of a petition for adjustment of status filed by his wife. The applicant states that his wife has now withdrawn the petition, and he requests reconsideration of his case.

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 fails 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 Temporary Protected Status. 8 C.F.R. § 244.17(c).

In this case, the applicant provided an explanation for failure to re-register, and it does not appear that the applicant "willfully" failed to re-register. 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.