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U.S. Citizenship
and Immigration
Services



FILE: [REDACTED]

Office: VERMONT SERVICE CENTER

Date:

IN RE: Applicant: [REDACTED]

AUG 11 2004

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

ON BEHALF OF APPLICANT: SELF-REPRESENTED

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.

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

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prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The director's decision is withdrawn and the case will be remanded for further consideration and action.

The applicant is a native and citizen of Honduras who indicated on the TPS application that she entered the United States in November 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 to establish that she had re-registered for TPS during the period 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On November 1, 2002, the director notified the applicant that her temporary protected status would be "withdrawn unless you can submit additional evidence to show that you had re-registered on time or that you had a good reason for not registering."

The applicant failed to respond to the notice.

The director concluded that the applicant had failed to overcome the grounds stated in the Notice of Intent to Withdraw, and withdrew the applicant's temporary protected status on December 19, 2002. It is noted that the November 1, 2002 notice, properly addressed to the applicant at her current address, was returned as undelivered.

On appeal, the applicant states that she has not been able to contact the individual who assisted her with her application for TPS, and that she just learned that he had been incarcerated. She states that she did not receive the Notice of Intent to Deny, which was mailed to her on November 1, 2002. The applicant submits copies of an application for TPS, dated June 29, 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 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. However, the record does not establish that the applicant has submitted sufficient evidence to establish her continuous residence and physical presence in the United States. Therefore, the case will be remanded and the director shall fully adjudicate the application. The director may

request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS offered to Hondurans.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The case is remanded for further consideration and action.