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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

MU

[Redacted]

FILE:

[Redacted]

Office: NEBRASKA SERVICE CENTER

Date: JUN 8 2004

IN RE:

Applicant:

[Redacted]

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

DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The director's decision is withdrawn and the case will be remanded for further consideration and action.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 application that he entered the United States on February 27, 1998. 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 the applicant failed to submit evidence to establish that he had re-registered for TPS during the periods of 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On December 19, 2002, the director notified the applicant that his temporary protected status would be "withdrawn unless you can submit evidence to show that you re-registered as required."

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 January 21, 2003.

On appeal, the applicant states that he is not a late registrant because he did file a timely application for temporary protected status. He claims that he never received an Employment Authorization document. The applicant submits copies of money orders and receipt notices pertaining to his initial application for TPS, filed on July 26, 1999, and a subsequent Motion to Reopen, filed on June 30, 2000.

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 has presented sufficient evidence to establish that he did not "willfully" fail to re-register. However, it does not appear that the applicant has submitted sufficient evidence to establish his qualifying 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 action.