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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: JUN 29 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:

[REDACTED]

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

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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The director's decision is withdrawn and the case will be remanded for further consideration and action.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

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 period of 2001 through 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On January 7, 2003, the director notified the applicant that his temporary protected status would be "withdrawn unless you can submit additional evidence to show that you re-registered on time or that you had a good reason for not re-registering," for the 12-month period ending July 5, 2002.

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 March 20, 2003.

On appeal, the applicant states that he did not re-register for TPS during two consecutive re-registration periods because his financial situation was not very good, he was awaiting the outcome of an appeal which he had previously filed with the Immigration and Naturalization Service [now, Citizenship and Immigration Services, (CIS)], his wife was pregnant, and he was uncertain if he would be able to obtain employment authorization if he did apply. He states that his financial situation improved, and his employer requested an updated and valid Employment Authorization document, so he did apply for re-registration in 2002. The applicant also states that the media provided inaccurate information about the TPS program and he did not really understand the application forms.

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 his qualifying 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.

It is also noted that another record [REDACTED] relating to the applicant's deportation proceedings was created on October 20, 1998, and that the applicant was ordered removed on March 24, 1999.

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