



U.S. Citizenship
and Immigration
Services

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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: 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
Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The director's decision is withdrawn and the case will be remanded for further consideration and action.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 application that she entered the United States on March 1, 1997. 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 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On December 13, 2002, the director notified the applicant that her temporary protected status would be "withdrawn unless you can submit evidence to show that you re-registered as required."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 March 12, 2003.

On appeal, the applicant states she did not re-register for TPS in 2001 and 2002 because she had been laid off from her job, and she had to move to a friend's house. She claims mail was not forwarded to her from her previous address. In addition, the applicant states she did not have money to pay for an attorney to assist her with her application, she was under a great deal of stress, and she believed that it was too late to "continue applying."

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, it does not appear that the applicant has submitted sufficient evidence to establish her qualifying continuous residence and physical presence in the United States, or that the qualifying continuous residence and physical presence continued from 2000 until 2002. The applicant presented no evidence of her presence in the United States during the timeframe subsequent to approval of her initial TPS application. 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.