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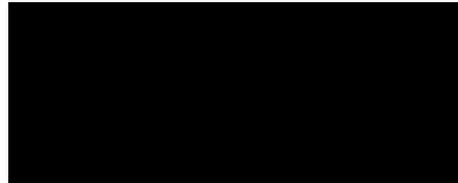


FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: NOV 30 2005
[LIN 02 200 51259]

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:



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.


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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal.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 case will be remanded.

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 applicant indicated on her application that she entered the United States without a lawful admission or parole on April 7, 1997. The director approved the application for Temporary Protected Status (TPS) on May 24, 2000. The director subsequently withdrew the applicant's Temporary Protected Status on January 10, 2003, when it was determined that the applicant had failed to submit evidence that she had successfully re-registered for temporary protected status during the period July 6, 2001 to 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 September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted until July 5, 2006, upon the applicant's re-registration during the requisite time period.

An alien who has been granted Temporary Protected Status 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 22, 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 for temporary protective status for the period of July 6, 2001 to July 5, 2002."

In response, the applicant explained that her counsel submitted a Form I-765, which was received on April 16, 2001. According to the applicant, it appears that her attorney failed to complete the Form I-821 to re-register her for TPS for 2001.

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 TPS on January 10, 2003. On appeal, the applicant states that she filed her TPS application with her employment authorization application in a timely manner.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act if 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, it does not appear that the applicant "willfully" failed to re-register. Therefore, the director's decision to withdraw the applicant's Temporary Protected Status, will, itself, be withdrawn.

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.