



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
[LIN 03 202 51861]

Office: NEBRASKA SERVICE CENTER

Date: 7th 12 2008

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.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the appeal will be sustained.

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status on February 15, 2000. The director subsequently withdrew the applicant's Temporary Protected Status on January 27, 2003, when it was determined that the applicant had failed to submit a required annual re-registration.

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).

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General. Section 244(c)(3)(c) INA.

The record reveals that on February 15, 2000, the director approved the application for Temporary Protected Status. The record also reflects that the applicant was granted employment authorization until July 5, 2001. In addition, the record reflects that the applicant attempted to re-register for the 2001-2002 period on August 20, 2001; however, his TPS application was rejected and returned to him on August 22, 2001 because he had failed to submit the re-registration application by the August 6, 2001 deadline. The record contains an undated letter from the applicant, apparently resubmitted with the rejected application, in which he explained that he had misunderstood information provided to him by the Indianapolis Citizenship and Immigration Services (CIS) Office, and thought he had until August 15, 2001, to re-register. The applicant had attempted again to submit the application, but on September 10, 2001, the TPS application was again rejected for late filing and returned to the applicant.

On May 9, 2002, the applicant submitted a new Form I-821 and a Form I-765, Application for Employment Authorization. On December 3, 2002, the director notified the applicant that his Temporary Protected Status would be "withdrawn unless you can submit additional evidence to show that you had registered on time or that you had a good reason for not registering." In response, on December 24, 2002, the applicant submitted a letter reiterating his claim that he had failed to re-register for TPS because he had misunderstood instructions given to him by an Immigration Officer in Indianapolis.

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 27, 2003. The record does not reflect that the applicant appealed the director's decision.

The applicant filed a subsequent TPS application on June 16, 2003. On July 28, 2003, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit a current photo identity document. The applicant, in response, provided the requested photo identity document. On August 29, 2003, the director determined the applicant had not established eligibility for late registration and denied the application.

On appeal of the denial of the instant application, the applicant asserts that he is eligible for TPS and submits additional evidence that he had applied for TPS during the initial registration period.

In this case, the applicant provided an explanation for his failure to re-register and it does not appear that the applicant "willfully" failed to re-register for the 2001-2002 period. There are no other known grounds of ineligibility; therefore, the director's decision will be withdrawn and the appeal will be sustained.

An alien applying for Temporary Protected Status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The director's decision is withdrawn and the appeal is sustained.