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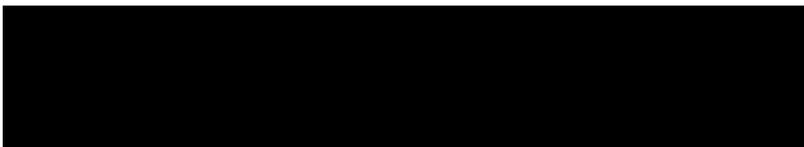
Office: NEBRASKA SERVICE CENTER

Date: OCT 16 2006

[LIN 02 215 51300]

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:



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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center. Three motions to reopen, filed by the applicant, were granted by the director and he denied the application each time. The applicant appealed the director's decision on the final motion, and it 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 director determined that the applicant failed to establish that he had submitted his annual re-registration. The director, therefore, denied the application.

The applicant indicated on his application that he entered the United States without a lawful admission or parole on February 4, 1992. The director approved the application for Temporary Protected Status (TPS) on June 19, 2000. The director subsequently withdrew the applicant's Temporary Protected Status on January 13, 2003, when it was determined that the applicant had failed to submit evidence that he had re-registered for TPS during the period of 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 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 July 5, 2007, upon the applicant's re-registration during the requisite 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 20, 2002, the director notified the applicant that his Temporary Protected Status would be "withdrawn unless you can submit additional evidence to show that you have filed for this extension."

The applicant subsequently submitted an appeal that was treated as a motion, which the director denied. The applicant submitted two other subsequent motions. The applicant submitted an appeal of the last motion. In the appeal, counsel for the applicant explained that she failed to timely file the re-registration application for the period of May 8, 2001 to August 9, 2001. According to counsel, the applicant filed another application on June 11, 2002 that was incorrectly identified as a re-registration instead of a late initial registration. Counsel states that the applicant was eligible for late initial registration.

The director stated in his decision that the applicant may be eligible for late initial registration, but he would be required to submit a new application, with full fees, for separate consideration and adjudication. The director concluded that the applicant had failed to overcome the grounds of denial and denied the application again. On appeal, counsel again explained that it was her fault that the applicant's re-registration was not filed timely.

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.

Beyond the director's decision, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since December 30, 1998 or physical presence from January 5, 1999 to the filing date of the TPS application. It is also noted that the applicant filed an initial application on March 19, 1999 that was denied by the director on January 20, 2000. In that decision, the director determined that the applicant claimed Honduran citizenship and had been deported to Honduras on October 22, 1991 under the name of [REDACTED] and, that the applicant had subsequently claimed Mexican citizenship and had been deported on December 2, 1994 to Mexico under the name of [REDACTED]. Consequently, the applicant may be inadmissible to the United States, pursuant to section 212(a)(9) of the Act, as an alien previously removed and had reentered the United States without the consent of the Secretary of the Department of Homeland Security.

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.