

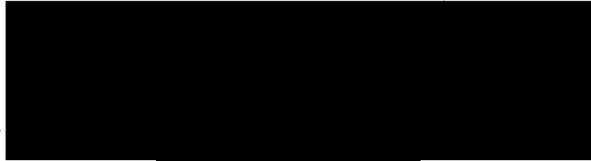
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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U.S. Citizenship
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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: APR 10 2007
[EAC 99 174 53749]

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be granted, the case will be reopened, *sua sponte*, and the application will be approved.

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on December 28, 1999.

The director subsequently withdrew the applicant's TPS on January 3, 2003, when it was determined that the applicant had failed to respond to a request for evidence to show that he had re-registered during the required time period subsequent to the approval of his application.

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). TPS shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner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) of the Act.

The applicant appealed the director's decision to withdraw TPS on January 21, 2003. He stated that he had sought the professional help of "Zocky's Services" to prepare and file all of his applications, that each time the lady at Zocky's Services filed an application, he would receive everything back from the Service Center, and that "she always says that everything is alright that she only forgot to filed [sic] a form." The applicant requested that his application be reconsidered because it is the negligence of Zocky's Service that has "prejudice my immigration status in this country [sic]."

The AAO reviewed the record of proceeding, including the applicant's statement on appeal filed on January 21, 2003, and determined that the applicant had not provided sufficient evidence to establish a finding of failure to register for good cause as stipulated in 8 C.F.R. § 244.14(a)(3). The AAO, therefore, concurred with the director's conclusion and dismissed the appeal on June 16, 2003.

On motion, the applicant asserts that he never received any notice to submit evidence, that the initial evidence was already submitted with his original application, and that his application was denied without giving him an opportunity to be heard. He submits additional documents to establish continuous residence and continuous physical presence in the United States during the requisite period.

It is noted that the motion to reopen was filed with the Vermont Service Center on January 6, 2005, approximately 19 months after the AAO dismissed the appeal, and not within 33 days, as required by regulation. C.F.R. 103.5(a)(1)(i). However, this case is being reopened, *sua sponte*; therefore, the late filing of the motion will be considered moot.

In this case, the applicant had originally provided an explanation for his failure to re-register and it does not appear that the applicant "willfully" failed to re-register. There are no other known grounds of ineligibility; therefore, the director's decision to withdraw the applicant's Temporary Protected Status will, itself, be withdrawn, and the application will be approved.

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 decision of the director dated January 3, 2003, and the decision of the AAO dated June 16, 2003, are withdrawn and the application is approved.