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U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

OFFICE: Nebraska Service Center

DATE:

DEC 04 2007

[LIN 02 234 50378 –
as it relates to
LIN 99 201 50283]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

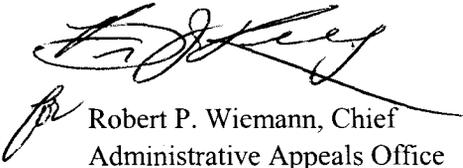
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was approved and subsequently withdrawn by the Director, Nebraska Service Center (NSC).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 The director's decision will be withdrawn.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

The record indicates that the applicant is a national of Honduras who was granted Temporary Protected Status (TPS) on October 17, 2000. The director subsequently withdrew the applicant's TPS on January 13, 2003, on the ground that the applicant had failed to file a required annual re-registration.

The director may withdraw the status of an alien granted TPS under section 244 of the Act if the alien fails, without good cause, to register annually with the Attorney General within 30 days before the end of each 12-month period after the granting of TPS in a form and manner specified by the Attorney General. *See* section 244(c)(3)(C) of the Immigration and Nationality Act (INA) and 8 C.F.R. § 244.17(c).

The record shows that the NSC Director approved the initial TPS application, along with employment authorization, for the 1999-2000 registration period, and that the applicant subsequently filed a re-registration application and an extension of employment authorization which were granted for the 2000-2001 registration period. On November 20, 2002, however, the director notified the applicant that no extension of his employment authorization had been filed for the registration period of July 6, 2001 – July 5, 2002, and that his TPS would be withdrawn unless he provided "evidence to show that you filed for this extension."

After the applicant failed to respond within the required 30 days, the director notified the applicant by letter on January 13, 2003, that his TPS had been withdrawn.

The applicant filed a timely appeal, and submitted copies of the Forms I-821 and I-765 that he submitted to the NSC in July 2001, both of which were stamped on July 17, 2001, along with a return letter from the NSC, dated August 8, 2001, advising the applicant that his application for an extension of TPS (Form I-821) had been rejected because the Form I-765 had been submitted without the filing fee of \$100.00. Counsel argues on appeal that the NSC acted improperly because no fee was required for the TPS re-registration application, which should therefore have been adjudicated regardless of whether a fee was submitted with the Form I-765 (Application for Employment Authorization).

The applicant has provided an explanation for his failure to re-register for TPS, and it does not appear that the applicant willfully neglected to re-register for the one-year period in 2001-02. The record does not reveal any other grounds of ineligibility for TPS. Accordingly, 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 that burden.

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