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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE:

DEC 18 2007

[EAC 99 205 50699]

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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center (VSC).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 The director's decision will be withdrawn.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

The record indicates that 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. The director subsequently withdrew the applicant's TPS on the ground that the applicant had failed to file a required annual re-registration.

An alien who has been granted TPS must register annually with the district office or service center with jurisdiction over the alien's place of residence. *See* 8 C.F.R. § 244.17(a). 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 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 Act and 8 C.F.R. § 244.17(c).

The record shows that the applicant's initial Form I-821, Application for Temporary Protected Status, was filed on June 26, 1999, and approved by the Director, VSC, on December 6, 2000. The applicant's first re-registration application was approved on December 13, 2000, with a validity period of July 6, 2000 – July 5, 2001.

On October 11, 2002, however, the director notified the applicant that he had failed to re-register for TPS for the period of July 6, 2001 – July 5, 2002, and that his TPS would be withdrawn unless he provided "evidence to show that you re-registered on time or that you had a good reason for not re-registering." The applicant filed a motion to reconsider with additional documentation on November 5, 2002, which the director treated as a response to the notice of intent to withdraw. In a decision issued on April 2, 2003, the director withdrew the applicant's TPS, stating that the evidence the applicant had submitted did not overcome the grounds for withdrawal.

On appeal, counsel asserts that the applicant paid a friend to prepare his re-registration application in May 2001, but that individual failed to file the Form I-821 with the VSC. A copy is submitted of a Form I-821 prepared by [REDACTED] of the International Professional Association, dated June 22, 2002, which was apparently intended to accompany a Form I-765, Application for Employment Authorization, that was prepared by Ms. [REDACTED] on the same date and timely filed with the VSC on June 28, 2002. Counsel resubmits a copy of the applicant's notarized statement in response to the notice of intent to withdraw, in which he indicates that he filled out the Form I-821 and gave it to an acquaintance who had previously handled his filings, along with the requisite fee. The applicant asserts that he did not find out that the application had not been filed until after he wrote to the Immigration and Naturalization Service (INS) on November 15, 2002, inquiring about the status of his re-registration application, and was informed that no such application had been received. Counsel also submits a letter from [REDACTED] dated April 16, 2003, who states that the applicant gave his "Form" to her for mailing, but that she gave the form to her stepson to mail on July 2, 2001. Ms. [REDACTED] states that she did not know that her stepson never mailed the form.

The AAO determines that the applicant has provided a credible 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 of April 2, 2003, is withdrawn. The appeal is sustained, and the application is approved.