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U.S. Citizenship  
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FILE:



Office: VERMONT SERVICE CENTER

Date: **JUL 24 2008**

[WAC 05 067 77312]

IN RE:

Applicant:



APPLICATION:

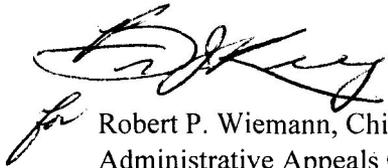
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's initial Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal.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

The applicant is a 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 record reveals that the applicant filed a TPS application during the initial registration period on February 1, 1999, under Citizenship and Immigration Services (CIS) receipt number EAC 99 139 50237. The director determined that the applicant failed to submit evidence to establish that he had successfully re-registered for temporary protected status during the period July 6, 2001 to July 5, 2002. The director, therefore, withdrew the applicant's temporary protected status.

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12 -month period after the granting of such status, in a form and manner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 August 18, 2000 the director approved the application for Temporary Protected Status. However, the record does not reflect an attempt by the applicant to re-register for the July 6, 2001 to July 5, 2002 period.

On December 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 had registered on time or that you had a good reason for not registering."

The applicant failed to respond. The director concluded that the applicant had failed to overcome the grounds stated in the December 20, 2002 Notice of Intent to Withdraw and withdrew the applicant's TPS on March 14, 2003. The applicant failed to appeal the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on December 6, 2004, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that he erred in letting his previous TPS expire. According to the applicant, he did not understand that he needed to renew TPS every year.

In this case, it does not appear that the applicant "willfully" failed to re-register. There are no other known grounds of ineligibility; therefore, the director's initial decision will be withdrawn and the initial application will be approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration

will be sustained and that application will also be approved. The applicant is eligible for employment authorization under 8 C.F.R. § 274a.12(a)(12).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b). The applicant has met this burden.

**ORDER:** The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved. The appeal is sustained.