U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

M-1

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: JUL 7 2004

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: Self-represented

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.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of Honduras who indicated on her application that she entered the United States in May 1996, without a lawful admission or parole.

The director withdrew the applicant's Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because he determined the applicant had failed to respond to a request to furnish evidence that she had submitted an application for an extension of employment authorization during the period July 6, 2001 through July 5, 2002.

On appeal, the applicant states that she had continued to live at the address she had provided on the Form I-821, Application for Temporary Protected Status, but the postmaster had reported her home as vacant during a vacation period in November 2002. The applicant states she has resided at the same address since November 1999.

The director may withdraw the status of an alien granted temporary protected status under section 244 of the Act at any time if it is determined that the alien failed 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 TPS. 8 C.F.R. § 244.14.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

(a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;

(b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;

(c) Has continuously resided in the United States since such date as the Attorney General may designate;

(d) Is admissible as an immigrant except as provided under section 244.3;

(e) Is not ineligible under 8 C.F.R. § 244.4; and

(f) (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or

(2) During any subsequent extension of such designation if at the time of the initial registration period:

(i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;

(ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

(g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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 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 director stated in the January 14, 2003 withdrawal notice that the applicant had failed to respond to a December 3, 2002 request to furnish evidence to show that she had filed for an extension of employment authorization for the period of July 6, 2001 through July 5, 2002. The notice was returned marked "unclaimed."

The applicant, on appeal, states she did not receive the notice of intent to withdraw her temporary protected status, but that she has lived at the same address for six years. In addition, the applicant submits a copy of a U.S. Postal Service (PS) Form 3800, Receipt for Certified Mail, for an article of mail delivered to the Nebraska Service Center on July 2, 2002.

The record reflects that the applicant submitted a Form I-821, Application for Temporary Protected Status, and a Form I-765, Application for Employment Authorization, on June 11, 2002. The applicant stated in a separate letter that she was filing the Form I-765 along with the TPS application for registration purposes only, and that she did not need employment authorization. On June 19, 2002, the director informed the applicant of the rejection of her application for TPS because she had not submitted the proper filing fee and she had not properly completed the front of the Form I-765. The applicant was informed that she must re-submit the forms by July 2, 2002. The record reflects that the applicant re-submitted the correct Form I-765, the Form I-821, and a filing fee on July 2, 2002.

Based on the documents furnished on appeal, in conjunction with other evidence in the record of proceeding, it is concluded that the applicant did comply with the requirement to re-register for TPS for the period July 6, 2001 to July 5, 2002.

It is also noted that a re-registration application filed on July 27, 2001, by the applicant, was approved by the director in April 2002.

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 director's decision is withdrawn. The applicant's appeal is sustained.