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: VERMONT 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:

[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.

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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The director's decision itself is withdrawn, and the appeal will be sustained.

The applicant is a native and citizen of Honduras who indicated on the application that he entered the United States on November 30, 1985. 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, for failure to respond to a request for information establishing that he had re-registered for TPS during the 2001 to 2002 registration period.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present in the United States since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite time period.

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).

On November 20, 2002, the director notified the applicant that his temporary protected status would be "withdrawn unless you can submit additional evidence to show that you registered on time or that you had a good reason for not registering" for the registration period 2001 to 2002. The record reflects that the applicant responded to the notice by submitting a copy of an Immigration and Naturalization Service notice acknowledging receipt of a Form I-765, Application for Employment Authorization, on June 13, 2002. It is noted that the record of proceeding contains the applicant's re-registration which was filed on June 13, 2002. On December 13, 2002, the director again notified the applicant that the record shows no evidence of his having re-registered for the period 2001 to 2002, and informed the applicant that his temporary protected status would be "withdrawn unless you can submit evidence to show that you re-registered as required." The record does not reflect that the applicant submitted a response to the December 13, 2002 notice. On March 13, 2003, the director withdrew the applicant's temporary protected status, stating that the applicant had not overcome the "grounds of denial" stated in the December 13, 2002 notice.

The applicant, on appeal, claims that the attorney who had previously assisted him in filing for TPS is incarcerated, and that he is gathering information to establish that he attempted to re-register.

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 fails 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 Temporary Protected Status. 8 C.F.R. § 244.17(c).

In this case, the applicant provided an explanation for failure to re-register, and it does not appear that the applicant "willfully" failed to re-register. 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.