U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
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: 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 N. 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DISCUSSION: The approval of the Application was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal.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 is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to submit evidence to establish that he had successfully re-registered for TPS during the period July 6, 2001 through July 5, 2002. The director, therefore, withdrew the applicant's temporary protected status.

On appeal, the applicant states that he moved to a new address in North Carolina, and a friend, who lives at his former address, just forwarded the notice of withdrawal to him. The applicant submits copies of correspondence pertaining to his application, and additional evidence of residence in the United States.

The director may withdraw the status of an alien granted TPS 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(a).

On November 2, 2002, the director notified the applicant that his temporary protected status would be "withdrawn unless you can submit evidence to show that you re-registered as required." In the notice of intent to withdraw, the director indicated that the applicant had failed to re-register for TPS during the re-registration period from July 6, 2001 to July 5, 2002. The director, therefore, concluded that the applicant had failed to overcome the grounds stated in the Notice of Intent to Withdraw, and withdrew the applicant's temporary protected status on April 4, 2003.

However, the record indicates that he applicant did file a Form I-765, Application for Employment Authorization, and Form I-821, Application for Temporary Protected Status, both dated May 28, 2002, that were accepted by the director on May 31, 2002. This occurred during the re-registration period noted by the director.

On appeal, the applicant states that he moved to a new address and has just received the notice of withdrawal. He furnishes copies of a Form I-821, Application for Temporary Protected Status, and a Form I-765, Application for Employment Authorization, both dated August 5, 1999; a July 18, 2000 Approval Notice, advising him that he had been granted TPS from June 29, 2000 to July 5, 2000; a June 3, 2002, Form I-797C, Receipt Notice, acknowledging a Form I-765, Application for Employment Authorization, received on May 31, 2002; a Form AV-11, Alien's Change of Address Card, dated May 1, 2003; and additional evidence of his residence in the United States.

In this case, 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.