



**U.S. Citizenship
and Immigration
Services**

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[REDACTED]

FILE: [REDACTED] OFFICE: California Service Center DATE: **JUN 16 2008**
[WAC 06 191 51364, motion]

INRE: 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 California Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center. A subsequent appeal was dismissed by the Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The case will be remanded for further consideration and action.

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status on January 3, 2000. The director subsequently withdrew the applicant's Temporary Protected Status on January 22, 2003, when it was determined that the applicant had failed to submit evidence that she filed for re-registration during the re-registration period between July 6, 2001 to July 5, 2002.

An alien who has been granted Temporary Protected Status 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).

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner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 the applicant filed an initial IPS application on March 8, 1999, under Citizenship and Immigration Services (CIS) receipt number EAC 99 183 51057. That application was approved on January 3, 2000. However, the record does not reflect an attempt by the applicant to re-register for the period of July 6, 2001 to July 5, 2002. On November 21, 2002, the director notified the applicant that her TPS would be withdrawn unless she could submit evidence to show that she had re-registered during this period. She was advised that if she should fail to respond within 30 days, her TPS would be withdrawn. On January 22, 2003, the director withdrew the applicant's TPS after he concluded that the applicant had failed to respond with any evidence to overcome the grounds for withdrawal. The record does not reflect that the applicant filed an appeal of the director's decision.

The applicant filed a Form 1-821, Application for Temporary Protected Status, on December 21, 2004, under CIS receipt number WAC OS 088 74490, and indicated that she was re-registering for TPS. The Director, California Service Center, denied that application on July 23, 2005, because the approval of the applicant's initial TPS had been withdrawn and the applicant was not eligible for re-registration for TPS. The applicant, through counsel, filed an appeal of that decision on August 8, 2005. The AAO dismissed that appeal on October 27, 2006, after the Chief of the AAO concluded that the applicant was not eligible to re-register for IPS. The AAO also found that the applicant had failed to establish her eligibility for late registration. The applicant has now submitted a motion to reopen.

On motion, counsel states that the applicant attempted to renew her TPS; however, her application had been denied because CIS alleged the applicant did not attend a scheduled Biometrics appointments when, in fact, the applicant had her fingerprints taken at Brooklyn Service Center on January 24, 2005. Counsel reasserts that the applicant has exercised due diligence in her attempts to re-register for TPS by having her fingerprints taken for the re-registration application.

Copies of documents furnished by counsel include:

1. DBI Tenprinter Application Information Worksheet (AIW), indicating that the applicant had her fingerprints taken on **January 25, 2005**;
2. Form I-797C, Fingerprint Notification, was issued on **January 5, 2005**, showing the location, date and time of the applicant's Biometrics appointment;
3. Three un-translated documents;
4. Form I-797C, Approval Notice, indicating the applicant's Form 1-821, Application for **Temporary Protected Status**, had been approved and was valid for the period from **January 3, 2000** to July 5, 2000.

It is noted that counsel erroneously stated that the applicant's TPS re-registration application was denied due to the applicant's failure to appear for her scheduled Biometrics appointments when, in fact, the re-registration application was denied due to the withdrawal of the applicant's initial TPS application for failure to re-register for the period July 6, 2001 to July 5, 2002.

On motion, the applicant submitted a statement dated December 8, 2002, indicating that she and her spouse submitted their TPS re-registration applications on May 14, 2001, to an attorney at the same time, within the re-registration period. However, her spouse received his work permit but she did not. In this case, the applicant provided an explanation for her failure to re-register and it does not appear that the applicant "willfully" failed to re-register for the July 6, 2001 to July 5, 2002 period. Therefore, the case will be remanded and the director shall fully adjudicate the application. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.c. § 1361.

ORDER: The director's decision is withdrawn. The case is remanded for further action.