

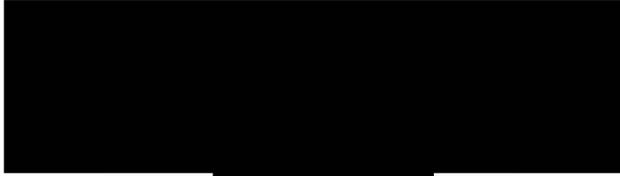
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U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: JUN 24 20

[LIN 00 01351469]

INRE:

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:



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. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal.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 case will be remanded.

The applicant claims to be 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 establish that he had submitted evidence to establish that he had successfully re-registered for temporary protected status during the period May 5, 2002 to July 5, 2002. The director, therefore, withdrew the applicant's temporary protected status.

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 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, 2009, upon the applicant's re-registration during the requisite period.

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).

On September 2, 2003, 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."

In response, counsel for the applicant set forth the good faith steps taken by the applicant to timely re-register for TPS.

The director concluded that the applicant had failed to overcome the grounds stated in the Notice of Intent to Withdraw and withdrew the applicant's TPS on December 4, 2003.

On appeal, the applicant again explained that he complied with all requirements in order to maintain his TPS. The applicant also restated his claim that he never willfully or intentionally wanted to abandon his TPS status. According to the applicant, he never failed to re-register for TPS when required.

Sections 244(c)(3)(A) and (C) of the Immigration and Nationality Act (Act) provide that the Secretary of Homeland Security (Secretary) shall withdraw TPS granted to an alien if "the alien was not in fact eligible for such status" or if "the alien fails, without good cause to [re-register.. in a form and manner specified by" the Secretary. Title 8 of the Code of Federal Regulations (CPR), part 244.14(a)(1) and (3) further state that the director may withdraw the status of an alien granted TPS if "the alien was not in fact eligible at the time such status was granted, or, at any time thereafter ineligible for such status" or if "the alien fails without good cause to [re-]register.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of Act if 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.P.R.. § 244.17(c).

In this case, it does not appear that the applicant "willfully" failed to re-register. Therefore, the director's decision to withdraw the applicant's Temporary Protected Status, will, itself, be withdrawn.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since December 30, 1998 and continuous physical presence from January 5, 1999 to the filing date of the TPS application.

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 offered to Hondurans. 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.