

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



MI

FILE:



Office: NEBRASKA SERVICE CENTER

Date: FEB 01 2005

[LIN 02 210 51431]

IN RE:

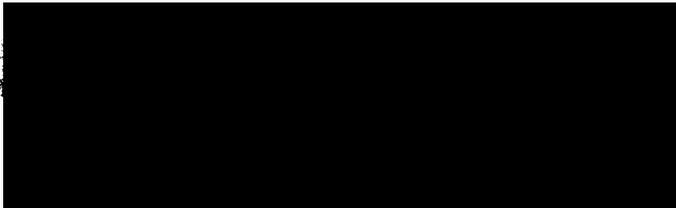
Applicant:



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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A late appeal was accepted by the director, Nebraska Service Center, as a motion to reopen, and was again denied. The applicant appealed the director's decision on the motion, and this action is now before the Administrative Appeals Office (AAO). The case will be remanded for further consideration and action.

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 temporary protected status during the period July 6, 2001 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 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 July 5, 2006, 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).

The applicant filed his initial TPS application on February 18, 1999. A request for additional evidence was issued on September 18, 1999. The applicant failed to respond to the notice. The district director, New York, "withdrew" the application on December 22, 2000 because the applicant failed to respond to a request for evidence regarding his criminal arrest.

On November 20, 2002, the Service Center 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."

The service center director denied the application on January 13, 2003 for abandonment. It is noted that the file, as currently constituted, does not contain a record of approval to allow for the "withdrawal" of TPS from the applicant. The applicant submitted an untimely appeal on February 27, 2003, which the director treated as a motion to reopen. On May 7, 2003, the director denied the motion.

It is noted that a Federal Bureau of Investigation (FBI) report in the record indicates that the applicant was arrested on February 2, 1992, for criminal possession of a weapon with intent to use, and for menacing. There is no final disposition of this arrest in the record.

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.