**U.S. Department of Homeland Security**
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U.S. Citizenship
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Services

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FILE: [redacted] Office: Vermont Service Center Date: JAN 18 2005
[EAC 99 202 52975]

IN RE: Applicant: [redacted]

PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. §1254

ON BEHALF OF PETITIONER: 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 M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

**DISCUSSION:** The applicant's temporary protected status was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal.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 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 she had successfully re-registered for temporary protected status during the periods July 6, 2000 to July 5, 2001 or 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 January 5, 2005, 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 director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the 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.F.R. § 244.17(c).

On October 11, 2002, the director notified the applicant that her 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, the applicant provided evidence that she had re-registered for the July 6, 2000 to July 5, 2001 re-registration period. The applicant did not submit proof that she had re-registered for the July 6, 2001 to July 5, 2002 re-registration period. Therefore, the director denied the application.

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 January 27, 2003.

On appeal, the applicant explained that she had been ill and unable to work. Consequently, she was unable to re-register for the indicated re-registration period. The applicant also furnished documentation in support of this claim. It should be noted that the applicant's illness may make her excludable under 8 C.F.R. 212(a)(1)(A) (i). Thus, the applicant should be given the opportunity to submit a proper waiver application (Form I-601, Application for Waiver of Grounds of Excludability) with fee, or a waiver of fees request.

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.

The case will be remanded to allow the applicant sufficient time to file the requisite form and supporting documentation, 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 the waiver of any applicable

exclusion grounds. 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.