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FILE:



Office: NEBRASKA SERVICE CENTER

Date: **OCT 04 2005**

[LIN 01 159 51589]

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:

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.

Robert P. Wiemann, Director
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DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal.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 is a native and citizen of El Salvador 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 his annual re-registration. The director, therefore, denied the application.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States without a lawful admission or parole in April 1991. The director approved the application for TPS on March 17, 2003. The director subsequently withdrew the applicant's Temporary Protected Status on March 3, 2004, when it was determined that the applicant had failed to submit evidence that he had filed for re-registration for the period between May 5, 2002 and July 5, 2002.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time 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 January 14, 2004, 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."

The applicant failed to respond to the notice. The director, therefore, withdrew the applicant's TPS on March 3, 2004.

On appeal, the applicant stated that he did not receive the notice because he had moved. The notice was sent to the applicant's address of record. In fact, it was sent to the same address the applicant provided on appeal. Thus, the applicant's failure to receive the notice is of his own making.

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).

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 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.

It is noted that a Federal Bureau of Investigation (FBI) fingerprint report indicates that the Aurora, Colorado Police Department arrested the applicant on November 14, 1994 for Assault/Battery, Assault Simple, and Damaged Property Business. In addition, on April 25, 2000, the applicant was arrested by the Aurora, Colorado Police Department for Assault/Battery, Assault Simple. The applicant is required to submit the final court disposition for each of the charges.

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.