**U.S. Department of Homeland Security**
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: SEP 06 2006
[LIN 02 215 51395]

IN RE: 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: 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.

for 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**DISCUSSION:** The applicant's temporary protected status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal.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 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.

The applicant is a native and citizen of Honduras who indicated on his application that he entered the United States without a lawful admission or parole in December 1997. The director approved the application for Temporary Protected Status (TPS) on October 17, 2000. The director subsequently withdrew the applicant's Temporary Protected Status on January 27, 2003, when it was determined that the applicant had failed to submit evidence that he had re-registered for TPS.

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. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed his application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 5, 2007.

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 December 3, 2002, 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 director concluded that the applicant had failed to overcome the grounds for withdrawal and withdrew the applicant's temporary protected status on January 27, 2003.

On appeal, the applicant's mother states that a Form I-130, Petition for Alien Relative, had been filed that included the applicant. It is noted that a Form I-130 is not an application for change of status as provided in 8 C.F.R. 244.2(f)(2), and does not render the applicant eligible for TPS. However, the record indicates that on August 1, 2001, the applicant attempted to submit a TPS re-registration application. In conjunction with that application, the applicant also submitted a Form I-765, Application for Employment Authorization. The Form I-765 was returned to the applicant because no fee was attached to it. However, the applicant's former representative provided a copy of a May 5, 2000 news release from the U.S. Department of Justice, Immigration and Naturalization Service, and asserted that the applicant's mother had relied on a statement contained in the news release which indicated that no fee was required in cases where employment authorization was not requested.

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.

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.