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U.S. Citizenship
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FILE:



OFFICE: NEBRASKA SERVICE CENTER

DATE:

NOV 29 2007

[LIN 99 101 53065]
[LIN 04 037 54615, appeal]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center, and the case is now before the Administrative Appeals Office on appeal.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

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status (TPS) on June 9, 2000. The director subsequently withdrew the applicant's TPS status on October 30, 2003, after determining that the applicant had failed to respond to a request dated August 22, 2003, to submit evidence to show that he had re-registered for TPS.

An alien who has been granted TPS 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).

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General. Section 244(c)(3)(c) of the Act and 8 C.F.R. § 244.14(a)(3).

The record indicates that a notice of intent to withdraw (ITW) was originally issued on December 3, 2002, under file or receipt number LIN 02 234 50526, requesting that the applicant submit evidence to show that he had re-registered for the period of July 6, 2001 through July 5, 2002. Because the applicant failed to respond to the ITW, the director withdrew the applicant's TPS on January 14, 2003. There is no evidence in the record that the applicant appealed this decision of the director. It is noted that the ITW and the director's decision was addressed and mailed to the applicant's former counsel.

On August 22, 2003, another notice of intent to deny, under receipt number LIN 03 209 50436, was issued notifying the applicant that his TPS would be withdrawn unless he submitted additional evidence to show that he filed for re-registration for the periods July 6, 2001 to July 5, 2002, and July 6, 2002 to July 5, 2003. The director determined that the applicant had failed to respond to the ITW and withdrew the applicant's TPS on October 30, 2003.

On appeal, the applicant states that he did respond to the ITW by submitting photocopies of a Form I-821, Application for Temporary Protected Status, and a Form I-765, Application for Employment Authorization; however, he failed to enclose the director's ITW with his response to the notice. The applicant explains that his wife filled out the re-registration forms and unintentionally mailed the forms to Honduras rather than to the Nebraska Service Center and the mail was returned one year later. He submits photocopies of a Form I-821 and a Form I-765, both signed by the applicant on September 6, 2002, and photocopies of two Employment Authorization Cards (EAD) one valid from January 4, 2000 to July 5, 2000, and one valid from July 5, 2000 to July 5, 2001.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

It is noted that CIS database indicates that the applicant submitted a Form I-765 on August 23, 2000, under receipt number LIN 00 221 51773. That application was approved and the applicant was issued an EAD

valid from July 5, 2000 to July 5, 2001. The applicant has submitted a photocopy of this EAD; however, the Form I-765 is not contained in the record of proceeding.

On July 5, 2002, the applicant submitted a re-registration application under receipt number LIN 02 234 50526. The applicant signed this re-registration application on June 12, 2001. In support of the application, the applicant submitted a copy of a mailing envelope from the applicant addressed to: "I-821 INS/Northern Service Center, [REDACTED], Honduras Nicaragua Only." This envelope was postmarked by the United States Postal Service on June 14, 2001, and bears two Honduran postal receipt stamps dated July 11, 2001 and July 30, 2001. It is noted that the applicant, on appeal, indicates that this mail was returned to him one year later.

The applicant filed another Form I-765 with the Nebraska Service Center on July 15, 2003, under receipt number LIN 03 209 50436. The director denied the re-registration application and withdrew the applicant's TPS on October 30, 2003. This is the present case and under appeal by the applicant.

On December 16, 2004, the applicant filed a Form I-821, under receipt number WAC 05 077 77409, and indicated that he was re-registering for TPS. CIS database indicates that the California Service Center approved this application on June 27, 2005.

The applicant has filed a re-registration application during each required annual re-registration period except for the 2001-2002 period. The applicant has provided an explanation for his failure to re-register for this period and evidence to corroborate his explanation. It does not appear that the applicant "willfully" failed to re-register for the 2001-2002 period. There are no other known grounds of ineligibility; therefore, the director's decision to withdraw the applicant's Temporary Protected Status will, itself, be withdrawn, and the application will be approved.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met that burden.

ORDER: The director's decision is withdrawn and the appeal is sustained.