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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER
[WAC 05 082 72070 - re-registration]

DATE:
DEC 01 2010

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:

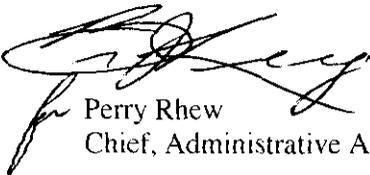
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the California Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Nebraska Service Center. The application for re-registration was denied by the Director, California Service Center. The matter was remanded by the Administrative Appeals Office (AAO). The Director, California Service Center, reopened the proceedings and denied the application. The matter is now before the AAO on appeal. The case will be remanded for further consideration and action.

The applicant claims to be a citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, counsel argues that the Director, California Service Center, did not have jurisdiction to adjudicate the initial TPS application as it was approved by the Director, Nebraska Service Center. Counsel asserts that the applicant's long, diligent filing of TPS re-registration applications and timely appeals overcomes any lack of evidence on the date of the initial TPS filing. Counsel provides a detailed history of the applicant's TPS application process.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until January 5, 2012, upon the applicant's re-registration during the requisite period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The record reveals that the applicant filed his TPS application on September 20, 1999. On May 12, 2000, the Director, Nebraska Service Center, approved the application. On December 4, 2003, the director withdrew the applicant's TPS pursuant to 8 C.F.R. § 244.14(a)(3) because the applicant had failed to successfully re-register. The applicant filed an appeal from the decision of the Director, Nebraska Service Center. On December 21, 2004, the applicant filed a re-registration application. On July 23, 2005, the Director, California Service Center, denied the re-registration application because the applicant's initial TPS application had been withdrawn and the applicant was not eligible to apply for re-registration for TPS. The applicant filed an appeal from

the decision of the Director, California Service Center. On June 24, 2008, the initial application was remanded by the AAO as it was determined that the applicant had established "good cause" for failure to timely re-register, but he failed to establish continuous residence and continuous physical presence during the requisite periods. The re-registration application was also remanded as it was dependent upon the adjudication of the initial application.

In response to a notice dated July 3, 2008, the applicant provided a copy of his Honduran birth certificate with English translation, copies of his employment cards, a sworn affidavit and evidence to establish his continuous residence and continuous physical presence.

The AAO concludes that the applicant had filed a timely TPS application during the initial registration period, he overcame his failure to timely re-register and has submitted evidence to establish his qualifying residence and physical presence in the United States. Therefore, the directors' decision to withdraw TPS and deny the re-registration application will be withdrawn. However, the validity period of the applicant's fingerprint check has expired.

Accordingly, the case will be returned for the purpose of sending the applicant a fingerprint notification form, and affording him the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without fee.

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 failed to meet this burden.

ORDER: The case is remanded to the director for further action consistent with the above and entry of a decision.