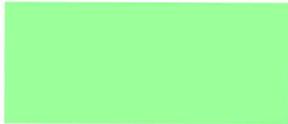




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **SEP 03 2013**

Office: VERMONT SERVICE CENTER

FILE:

IN RE: Applicant:

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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you.

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center.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

The applicant is a citizen of Honduras who was granted temporary protected status under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director withdrew the applicant's temporary protected status because the applicant had not remained continuously physically present in the United States from the date he was first granted TPS as required by 8 C.F.R. 244.14(a)(2).

On appeal, the applicant states, in pertinent part:

My father was very ill in Honduras and I had to leave Louisiana because he needed me there. I thought I could come back with my work authorization permit and my TPS receipt. I never intended [sic] to abandon my TPS or the U.S. when my father was better, I tried to get a ticket back to Louisiana. I was told I needed to provide paperwork that I did not have."

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien has not remained continuously physically present in the United States from the date the alien was first granted Temporary Protected Status under this part. For the purpose of this provision, an alien granted Temporary Protected Status under this part shall be deemed not to have failed to maintain continuous physical presence in the United States if the alien departs the United States after first obtaining permission from USCIS to travel pursuant to § 244.15. 8 C.F.R. § 244.14(a)(2).

The regulation at 8 C.F.R. § 244.15 provides:

- (a) After the grant of Temporary Protected Status, the alien must remain continuously physically present in the United States under the provisions of 244(c)(3)(B) of the Act. The grant of Temporary Protected Status shall not constitute permission to travel abroad. Permission to travel may be granted by the director pursuant to the Service's advance parole provisions. There is no appeal from a denial of advance parole.
- (b) Failure to obtain advance parole prior to the alien's departure from the United States may result in the withdrawal of Temporary Protected Status and/or the institution or recalendering of deportation or exclusion proceedings against the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not

be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences.

The term brief, casual and innocent absence, as defined in 8 C.F.R. §244.1(1), means a departure from the United States in which each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence.

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 record reflects that the applicant filed his initial application on March 17, 1999, and it was approved on March 5, 2003.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated August 12, 2011, which indicates that on August 11, 2011, the applicant entered the United States without inspection and was subsequently apprehended by U.S. Custom and Border Protection near Brownsville, Texas. The applicant indicated that he departed the United States in November 2007 to Honduras; that he had not returned to the United States since his 2007 departure; and that he never requested permission to leave the United States.

On November 2, 2011, the director withdrew temporary protected status because the applicant failed to establish that he had been continuously physically present in the United States due to his absence from November 2007 to August 10, 2011.

Relief is provided for absences due to emergencies and absences approved under the advance parole provisions. In the instant case, the applicant was not approved advance parole for his 2007 departure from the United States and he has not provided any independent, corroborative, contemporaneous evidence to support an emergent event had occurred. The applicant's prolonged absence would appear to have been a matter of personal choice, not a situation that was forced upon him by unexpected events.

The applicant's 45-month stay outside of the United States interrupted his continuous physical presence in the United States. Therefore, the applicant has failed to maintain continuous physical presence in the United States since March 5, 2003, pursuant to 8 C.F.R. § 244.14(a)(2). Consequently, the director's decision to withdraw the applicant's temporary protected status will be affirmed.

An alien applying for temporary protected status 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 appeal is dismissed.