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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

[Redacted]

FILE [Redacted]  
BAL 00 164 50008

Office: Baltimore

Date: JUN 24 2002

IN RE: Applicant: [Redacted]

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

IN BEHALF OF APPLICANT:

[Redacted]

**PUBLIC COPY**

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

*Robert P. Wiemann*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Baltimore, Maryland, and is now before the Associate Commissioner for Examinations on appeal. The case will be remanded to the director for further consideration and action.

The applicant, claiming to be a national of Sierra Leone, is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a.

The district director determined that the applicant failed to establish that she is a national of Sierra Leone. The director, therefore, denied the application.

On appeal, the applicant states that she is a national of Sierra Leone, and that she has been continuously physically present in the United States since June 1, 1999 to the present. She submits additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. 244.4; and
- (f)
  - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary

departure status or any relief from removal;

(ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The term continuously resided as used in 8 C.F.R. 244.1 means residing in the United States for the entire period specified in the regulations and since November 9, 1999. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term continuously physically present as used in 8 C.F.R. 244.1 means actual physical presence in the United States for the entire period specified in the regulations and since November 9, 1999. 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 as defined within this section.

8 C.F.R. 244.9(a)(1) provides, in part:

Each application must be accompanied by evidence of the applicant's identity and nationality. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of:

- (i) Passport;
- (ii) Birth certificate accompanied by photo identification; and/or
- (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The applicant claims in her application that she is a citizen of Sierra Leone. Furnished with her application is a copy of a passport issued in Guinea on September 17, 1998, indicating that the applicant was born in Conakry, and that she is a national of Guinea. Contained in the passport is a nonimmigrant B1/B2 U.S. visa issued to the applicant in Conakry on October 23, 1998. As proof of Sierra Leone citizenship, the applicant submitted a statement from the Embassy of Sierra Leone, Washington, D.C., and a copy of the applicant's birth certificate; this birth certificate was certified by the Embassy of Sierra Leone indicating that it is a true copy of the original document issued in Freetown, Sierra Leone.

The district director determined that the applicant had not provided an acceptable explanation of how she obtained the passport or visa. He further determined that the statement from the Embassy of Sierra Leone was unsupported by documentation for the applicant's claimed country of birth.

On appeal, the applicant resubmits the statement from the Embassy of Sierra Leone and the birth certificate with the Embassy's certification. She also submits another statement from the Embassy (Hassan Conteh, Minister Counselor & Head of Chancery), indicating that he [REDACTED] had spoken to the applicant and also personally interviewed another individual who is known to him as a Sierra Leonean citizen regarding the background of the applicant. As a result, [REDACTED] certifies that the applicant is a bona fide native-born citizen of Sierra Leone. He states that at the height of the current civil war in Sierra Leone, many Sierra Leoneans obtained other national passports because they were more likely to obtain visas than with Sierra Leonean passports. He further states that the applicant's birth certificate is a valid birth certificate legitimately obtained from the Office of the Chief Registrar of Births and Deaths, Department of Health, Sierra Leone.

If it is determined that the applicant is in fact a citizen of Sierra Leone, it appears she may be inadmissible to the United States pursuant to section 212(a)(6)(C) of the Act, 8 U.S.C. 1182(a)(6)(C), for having willfully misrepresented a material fact when she procured a passport and a U.S. visa to facilitate her entry into the United States, leading the Service officer to

believe that she is a citizen of Guinea when the applicant knows for a fact that she is a citizen of Sierra Leone as claimed.

The case will, therefore, be remanded so that the district director may accord the applicant an opportunity to file an application for waiver of inadmissibility pursuant to 8 C.F.R. 244.3(b) if it is determined that she is in fact a citizen of Sierra Leone. The district director shall enter a new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner, Examinations, for review, and without fee.

**ORDER:** The district director's decision is withdrawn. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.