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U.S. Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street N.W.
Washington, D.C. 20536

[REDACTED]

File: [REDACTED]

Office: Philadelphia

Date:

DEC 17 2003

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:

This is the decision 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.

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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

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

DISCUSSION: The application was denied by the District Director, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of Liberia who indicated on her application that she entered the United States as a B-2 visitor on July 12, 2002. The District Director denied the application after determining that the applicant was ineligible for TPS because it appeared that she had firmly resettled in another country.

On appeal, counsel provided English translations of the applicant's Cote D'Ivoire Identity Cards and denied that the applicant had firmly resettled in Cote D'Ivoire.

Under sections 244(c)(2)(B)(ii) and 208(b)(2)(A)(vi) of the Immigration and Nationality Act (the Act), an alien shall not be eligible for temporary protected status if the Attorney General finds that the alien was firmly resettled in another country prior to arriving in the United States.

As defined in 8 C.F.R. § 208.15, an alien is considered to be firmly resettled if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement unless he or she establishes:

(a) That his or her entry into that country was a necessary consequence of his or her flight from persecution, that he or she remained in that country only as long as was necessary to arrange onward travel, and that he or she did not establish significant ties in that country; or

(b) That the conditions of his or her residence in that country were so substantially and consciously restricted by the authority of the country of refuge that he or she was not in fact resettled. In making his or her determination, the asylum officer or immigration judge shall consider the conditions under which other residents of the country live; the type of housing, whether permanent or temporary, made available to the refugee; the types and extent of employment available to the refugee; and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges, such as travel documentation that includes a right of entry or reentry, education, public relief, or naturalization, ordinarily available to others resident in the country.

The record contains copies of numerous identity cards issued to the applicant by the government of Cote D'Ivoire. In a notice dated October 30, 2002, the applicant was requested to submit French to English translations of these documents.

On December 4, 2002, the District Director denied the application after determining that the applicant had firmly resettled in Cote D'Ivoire prior to arriving in the United States. On appeal, counsel provided the requested translations and asserted that the applicant had not been offered "permanent residency, citizenship, or another type of permanent resettlement" in Cote D'Ivoire. In an attempt to corroborate this assertion, counsel submitted a letter from Cote D'Ivoire's Ambassador to the United States providing "information regarding the Ivorian residency card for foreign residents." The Cote D'Ivoire Ambassador stated that the applicant's identity cards are "proof indicating that the alien resident is approved to live permanently or occasionally in Cote d'Ivoire." Contrary to counsel's assertions, this evidence strongly suggests that the applicant received an offer of permanent residence from the government of Ivory Coast.

Counsel also asserted on appeal that "the conditions of [the applicant's] residency were so substantially and consciously restricted by the local authorities so that she was not in fact resettled." However, counsel failed to submit any evidence to corroborate this assertion or to substantiate the nature of the alleged restrictions. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988). Without more persuasive evidence as to the alleged restrictions, counsel's assertion does not establish that the applicant was not firmly resettled.

Finally, counsel asserted that the applicant had not resettled because her "entry in [sic] the Republic of Cote D'Ivoire was a consequence of flight from persecution and her stayed [sic] has been only as long as was necessary to arrange onward travel." However, the identity cards provided by the applicant confirm that she has lived in Cote D'Ivoire for at least eight years. Counsel failed to provide any evidence to support his suggestion that the applicant's stay in Cote D'Ivoire was brief or that the applicant made any attempts "to arrange onward travel" during her stay there.

The burden of proof is upon the applicant to establish that she meets the above requirements. Counsel's statement and the evidence provided on appeal do not overcome the adverse evidence in the record. Consequently, the District Director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for temporary protected status has the burden of proving that 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.