



U.S. Citizenship
and Immigration
Services

[REDACTED]

FILE: [REDACTED]

Office: PHILADELPHIA

Date: 01/14/2004

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]

identifying data deleted to
prevent clearly unwarranted
disclosure of information

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.

Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

111

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

The applicant is a native and citizen of Liberia 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 interim district director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, counsel for the applicant submits a brief statement.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant 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.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Persons applying for TPS offered to Liberians must demonstrate that they have continuously resided and been continuously physically present in the United States since October 1, 2002. The initial registration period for Liberians was from October 1, 2002 through March 31, 2003. The record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on August 26, 2003, after the initial registration period had expired.

It is noted that the applicant indicated in Part 1 of the Form I-821 that he was filing for annual registration/re-registration, and that he had previously been granted TPS. However, if an applicant is filing an application for annual registration/re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In this case, the record reflects that the applicant filed a Form I-765, Application for Employment Authorization, on October 5, 2001, based on Liberian Deferred Enforced Departure (DED). There is no evidence contained in the record that the applicant ever previously filed a Form I-821. Therefore, this application can only be considered as an initial filing for TPS benefits under the provisions of late registration, since the application was filed outside of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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 interim district director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on September 17, 2003.

On appeal, counsel for the applicant states:

[The applicant] was unemployed at the time appointed for him to re-apply for [TPS]. He has had no arrests and was attending [John Bartram High, School District of Philadelphia, Pennsylvania]. While ignorance of the law is not an excuse we ask that his ignorance be used as a mitigating factor to grant continuing TPS.

As previously discussed, this is the applicant's initial application Form I-821, filed under the provisions of late registration. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that on August 25, 2004, the Secretary of the Department of Homeland Security re-designated Liberia as a country eligible for TPS. This re-designation will allow nationals of Liberia who have been continuously physically present in the United States since August 25, 2004, and who have continuously resided in the United States since October 1, 2002, to apply for TPS. The re-designation of Liberia's TPS designation is effective October 1, 2004, and will remain in effect until October 1, 2005. The registration period begins August 25, 2004, and will remain in effect until February 21, 2005. The dismissal of the current appeal does not preclude the applicant from applying for TPS under the new re-designation with a new Form I-821 and appropriate fee.

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.