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**U.S. Citizenship
and Immigration
Services**

M1

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **DEC 29 2006**

[EAC 06 042 51780]

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 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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), 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 director denied the application because the applicant failed to establish that he was eligible for late registration. The director also determined that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, counsel for the applicant submits a brief and additional documentation.

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 parole; 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.

On August 25, 2004, the Department of Homeland Security announced the termination of prior designations and the re-designation of TPS for nationals of Liberia (or aliens having no nationality who last habitually resided in Liberia). The new re-designation of TPS allowed 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. This re-designation of Liberia's TPS designation was effective October 1, 2004, to October 1, 2005. The registration period was valid from August 25, 2004, through February 21, 2005. The record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on October 17, 2005, more than seven months after the new re-designation registration period had expired.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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).

On January 9, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The record reveals that the applicant failed to respond to the request.

The director determined that the applicant had failed to establish that he was eligible for TPS and denied the application on February 27, 2006.

On appeal, counsel asserts that the applicant is eligible for late registration because he filed an application for asylum in December 1997 that is still pending. Counsel also submits documentation to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record reflects that the applicant initially entered the United States as a nonimmigrant visitor (B-2) on August 13, 1997, with authorization to remain in that status until February 13, 1998. On October 20, 1997, the applicant

filed a Form I-589, Application for Asylum and Withholding of Deportation. On November 21, 1997, a notice of intent to deny the application was mailed to the applicant. The record contains a response to that notice from the applicant dated December 9, 1997. On December 12, 1997, the application was denied. Both the notice of intent to deny and the denial of the application were mailed to the applicant at his address of record.

Because the applicant did not have an application for asylum pending during the registration period, he is not eligible for late registration under 8 C.F.R. § 244.2(f)(2)(ii). While the applicant has submitted documentation in an attempt to establish his qualifying residence and physical presence in the United States; this evidence does not mitigate the applicant's failure to file his Form I-821 during the registration period. 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 on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence in the United States since October 1, 2002, and continuous physical presence since August 25, 2004.

Based on a review of the documentation submitted on appeal, it is concluded that the applicant has submitted sufficient evidence (including utility bills, account statements, invoices, receipts, and tax records) to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. He has, therefore, met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will be withdrawn. Nevertheless, the applicant remains ineligible for TPS due to his late registration as discussed above.

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. Here, the applicant has not met this burden.

ORDER: The appeal is dismissed.