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FILE:  OFFICE: PHILADELPHIA

DATE: **JUL 25 2006**

IN RE: Applicant: 

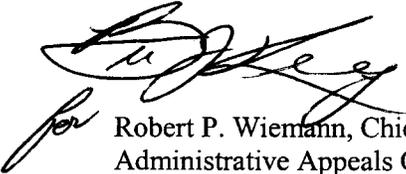
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the District Director, Philadelphia, Pennsylvania, and the case is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded to the director for further action.

The applicant is a native of Liberia who was granted Temporary Protected Status (TPS) on September 22, 2003. The director subsequently withdrew the applicant's TPS on July 19, 2004, when it was determined that the applicant had failed to re-register for TPS during the re-registration period for Liberians from August 6, 2003 through October 6, 2003.

Temporary Protected Status shall be withdrawn if the alien fails, without good cause, to register annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General. Section 244(c)(3)(C) of the Act.

The record indicates that on September 22, 2003, the director granted the application for TPS. However, the record does not reflect an attempt by the applicant to file the required annual re-registration during the period August 6, 2003 through October 6, 2003.

The district director noted that the last time the applicant registered for TPS was for the period ending October 1, 2003. He further noted that Service records confirm that the applicant was previously informed, via Form M-340, TPS Approval Notice, that in order to maintain her TPS status, she must register with CIS every year. The district director, therefore, withdrew the applicant's TPS status on July 19, 2004, after determining that the applicant had failed to file her TPS application during the re-registration period, and that she did not meet the eligibility requirements for late registration.

On appeal, the applicant states that she "received the letter for the deadline but I had no idea that if I did not meet the deadline my paper would be revoked." She further states that during that time, she was not working and she did not have the money to file the application, and that she was also under the impression that when she found a job, she could submit her application.

In this case, the applicant provided an explanation for her failure to re-register, and it does not appear that the applicant "willfully" failed to re-register during the period August 6, 2003 to October 6, 2003. Therefore, this finding of the director will be withdrawn.

However, it is noted that the record contains an unadjudicated Form I-601, Application for Waiver of Grounds of Excludability, filed by the applicant on July 15, 2003.

Section 212(a)(6)(C) of the Act states, in part:

Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 244(c)(2)(A)(ii) of the Act states, in part:

[E]xcept as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest...

The record shows that on May 14, 2001, the applicant filed Form I-765D, Liberian Deferred Enforced Departure (DED) Supplement to Form I-765. To establish that she is a national of Liberia, the applicant submitted with that application, a Liberian birth certificate. The birth certificate was forwarded to the INS Intelligence Division, Forensic Document Laboratory, for examination. An instrumental and comparative examination revealed that the Liberian Certificate of Registration of Birth presented by the applicant was counterfeit.

It is also noted that on June 10, 2003, the applicant was interviewed regarding her eligibility for TPS, and she testified that she entered the United States on August 15, 1996, using a Republic of Guinea Laissez Passer. On June 10, 2003, the applicant was issued Form I-72, Notice of Action, advising her that a review of CIS records indicate that her DED status was previously revoked because the evidence she presented to establish Liberian nationality was later determined by the Forensic Document Laboratory to be counterfeit. The applicant was, therefore, found to be inadmissible to the United States pursuant to section 212(a)(6)(C) of the Act, and she was granted 30 days in which to file a waiver of grounds of inadmissibility (Form I-601), and to provide credible, verifiable evidence of her Liberian nationality. The applicant filed the Form I-601 on July 15, 2003. That application remains unadjudicated.

Additionally, the record of proceeding contains Form I-131, Application for Travel Document, requesting that she be issued a travel document for travel to Guinea. This application was subsequently denied on September 21, 2005. It is noted that the applicant claimed on this document that she was born in Liberia, and that she is a citizen of Guinea. Pursuant to section 244 (c)(2)(B)(ii) of the Act, and as defined in 8 C.F.R. § 208.15, an applicant is ineligible for TPS if he or she is firmly resettled in another country prior to arriving in the United States. Therefore, the applicant may be precluded from eligibility for TPS.

Furthermore, the Federal Bureau of Investigation fingerprint results report indicates that on April 27, 2004, in Wilmington, Delaware, the applicant was arrested for Count 1, receiving stolen property greater than \$1000; Count 2, conspiracy 2nd; Count 3, receiving stolen property greater than \$1000; Count 4, conspiracy 2nd; Count 5, receiving stolen property greater than \$1000; Count 6, conspiracy 2nd. The final court disposition of this arrest is not contained in the record.

Accordingly, the case will be remanded so that the director could fully adjudicate the waiver application, and to accord the applicant the opportunity to submit the final court disposition of her arrest, detailed above. The director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for TPS. An adverse decision on the waiver application may be appealed to the AAO.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.