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U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 06 012 70161]

Office: VERMONT SERVICE CENTER

Date: **OCT 20 2006**

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: SELF-REPRESENTED

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.

Cindy M. Gomez for

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office 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 for TPS because the applicant failed to establish she was eligible for late initial registration. The director also found that the applicant had not established that she is a national of Liberia or that she had continuously resided in the United States since October 1, 2002, and had been continuously physically present in this county since August 25, 2004 to the date that she filed her application.

On appeal, the applicant submits a copy of her Liberian passport establishing her nationality. Her passport shows that she was admitted to the United States as a nonimmigrant F-1 student on August 20, 2002. The applicant provides additional documentation in support of her claim.

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.

The phrase *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. 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.

The phrase *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a 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.

Persons applying for TPS offered to Liberians must demonstrate that they have continuously resided in the United States since October 1, 2002, and that they have been continuously physically present since August 25, 2004. The initial registration period for Liberians was from August 25, 2004, through February 21, 2005. The record shows that the applicant filed her initial application with Citizenship and Immigration Services (CIS), on October 12, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, 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 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 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 her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

On January 11, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response to the director's request, the applicant provided no further documentation concerning late registration eligibility. The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on February 28, 2006.

On her application, the applicant states that she entered the United States on August 21, 2002 as an F-1 nonimmigrant student, enroute to Alabama A&M University in Normal, Alabama. The record contains no documentary evidence to show that the applicant has been or remains in nonimmigrant student status since her entry into the United States in 2002, or if and when that status terminated. To be eligible to apply under the late initial registration provisions of TPS, the applicant must demonstrate that she filed for TPS no later than 60 days from the termination of her status as a nonimmigrant student. She has not done so.

On appeal, the applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed for this reason.

Upon initial submission, the applicant provided no documentation concerning her continuous physical presence and continuous residence in the United States. On appeal, she submits the following:

1. A copy of her Liberian passport showing that she was admitted to the United States as a nonimmigrant F-1 student on August 20, 2002.
2. A copy of her hospital bill from the Lutheran Medical Center in Brooklyn, New York, dated February 2, 2003, for services she received on December 27, 2002, in Brooklyn, New York.
3. A copy of her delivery room discharge instructions dated February 9, 2003, from the Lutheran Medical Center in Brooklyn, New York.
4. A copy of the applicant's discharge notice from the Lutheran Medical Center in Brooklyn, New York, dated June 17, 2003.
5. A copy of the applicant's requisition and consent form authorizing NTD Laboratories, Inc. in Huntington Station, New York, to perform prenatal screening tests on October 14, 2004.
6. A copy of the applicant obstetrical ultrasound report from Kings County Hospital Center dated January 14, 2005.
7. A copy of the applicant's prenatal appoints and summary report showing events from September 29, 2004 through February 22, 2005.
8. A copy of the applicant's medical and obstetrical history card provided to her by the New York City Department of Health, Maternal, Infant & Reproductive Health Program dated June 3, 2004.
9. A copy of the applicant's Kings County Hospital Center request for consultation dated September 29, 2004.

10. A copy of the applicant's New York State Benefit Identification Card.

The applicant has submitted sufficient evidence to demonstrate that she has continuously resided in the United States since October 1, 2002, and that she has been continuously physically present since August 25, 2004, thereby overcoming the director's determination concerning these reasons for denial.

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.