



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

OFFICE: Boston District Office
Providence Field Office

DATE: NOV 16 2007

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 Providence Field Office. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Providence Field Office of the Boston District Office. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a citizen of Liberia who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The application was denied by the field office on the ground that the applicant was ineligible for TPS under section 244.2(f)(2)(i) and (ii) of the Act.

The applicant appealed on the ground that the decision was contrary to the law and facts of the case.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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.

Liberia was designated for TPS on October 1, 2002 (after a previous TPS designation terminated in 1999). The initial registration period was October 2, 2002 through April 1, 2003.

On August 25, 2004, the Department of Homeland Security (DHS) terminated the existing TPS designation for Liberia and re-designated the country for TPS until October 1, 2005. The initial registration period pursuant to the re-designation was August 25, 2004 through February 21, 2005. On August 16, 2005, the TPS designation was extended to October 1, 2006.

On September 20, 2006, DHS announced the termination of TPS for Liberia, effective October 1, 2007. Extensions of TPS until that date were restricted to aliens who had already been granted TPS or had previously-filed applications for TPS pending.

The record shows that the applicant was originally approved for TPS by the Providence Field Office on November 17, 1998. On October 28, 2002, the applicant filed another TPS application at the Providence Field Office. The application was denied by that office on January 14, 2003, on the ground that the applicant was ineligible for TPS because the Executive Office for Immigration Review (EOIR) denied her motion to reopen removal proceedings on November 25, 2002, which meant that the applicant did not have any relief from removal or any application for such relief pending or subject to further review or appeal, in accordance with section 244.2(f)(2)(i) and (ii) of the Act.

The applicant filed a timely appeal on February 10, 2003, asserting that the decision by the Providence Field Office was contrary to the law and facts of the case. This assertion is correct insofar as the statutory citations in the decision refer to an alien's eligibility for late initial registration, which was not an issue with respect to the TPS application filed on October 28, 2002. Since the application was filed during the initial registration period pursuant to Liberia's renewed designation for TPS on October 1, 2002, the applicant did not need to be granted relief from removal or have an application for such relief pending or subject to further review or appeal to be eligible for TPS. Thus, the denial of the TPS application on that ground was erroneous.

Nevertheless, the appeal cannot be sustained because the TPS designation for Liberia on October 1, 2002 – which was the legal basis for the application filed on October 28, 2002 – was terminated on August 25, 2004. After that date there was no legal authority for the AAO, or any other office in Citizenship and Immigrations Services (CIS), to grant the applicant TPS based on the application she filed in October 2002. (Moreover, any approval of TPS before August 25, 2004, was no longer valid after that date.) Accordingly, the appeal of the denial decision issued by the Providence Field Office on January 14, 2003, must be dismissed.

Though Liberia was re-designated for TPS on the same day the prior designation terminated – August 25, 2004 – the applicant did not file an application for TPS during the initial registration period, which ran until February 21, 2005.

The applicant did submit another TPS application to the Vermont Service Center (VSC) on November 14, 2006.¹ As previously discussed, extensions of TPS for the final one-year period were restricted to aliens who had already been granted TPS or who had previously-filed applications for TPS pending. Since the applicant was not granted TPS pursuant to Liberia's re-designation on or after August 25, 2004, and she no longer had an appeal pending after that date because the appeal she filed on February 10, 2003, was during the prior TPS designation for Liberia that terminated on August 25, 2004, the applicant was not eligible for late initial registration with respect to the application she submitted in November 2006. Furthermore, after the termination of Liberia's TPS designation on October 1, 2007, neither the AAO nor any other CIS office has the legal authority to grant TPS to applicants from Liberia.

It is noted that the applicant is subject to an outstanding Warrant of Removal/Deportation (Form I-205), based on a final order by an Immigration Judge. The Form I-205 was issued by the Field Office Director in Boston, Massachusetts, on September 2, 2003.

An alien applying for TPS has the burden of proving that he or she meets the requirements and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet that burden.

ORDER: The appeal is dismissed.

¹ A motion to reopen the application of October 2002 was submitted to the VSC simultaneously with the new TPS application, transferred to the Providence Field Office where it was fee receipted on December 6, 2006, and is currently before the AAO. A separate decision is being issued by the AAO on the motion to reopen.