



U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: OCT 02 2007

[EAC 07 038 70310]

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.

  
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 seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The VSC director determined that the applicant failed to establish he was eligible for late initial filing. The director, therefore, denied the application on February 23, 2007. The applicant filed the current appeal from that decision on March 22, 2007.

On appeal, counsel submits a letter from the applicant and additional documents.

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.

On August 25, 2004, the Secretary of the Department of Homeland Security (DHS) re-designated Liberia as a country eligible for TPS. This re-designation 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. The re-designation of Liberia's TPS designation was effective as of October 1, 2004, and remained in effect until October 1, 2005. The registration period began August 25, 2004, and remained in effect until February 21, 2005. On August 16, 2005, the DHS Secretary announced the extension of the TPS designation for Liberia until October 1, 2006. Citizenship and Immigration Services (CIS) records do not indicate that the applicant registered for TPS during the re-designation period, or during the first extension.

On September 20, 2006, the DHS Secretary announced the termination of TPS for Liberia, and issued procedures for nationals of Liberia who have been granted TPS to re-register for TPS. Liberians who have not previously been granted TPS, or who do not have already have a pending application for TPS, were not eligible to file under late initial filing provisions during the termination period.

The record reveals that the applicant filed the current application with CIS on November 5, 2006, and indicated that it was his application for re-registration under TPS.

The director, however, treated the application as an application for late registration. To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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).

The VSC director determined that the applicant failed to establish his eligibility for late registration, and denied the application.

On appeal, counsel submits a photocopy of the applicant's letter dated April 8, 2005, responding to a Request for Evidence (RFE) related to his Form I-765, Application for Employment Authorization. Counsel also submits copies of the applicant's passport, driver's license and Employment Authorization Card under the category "C8".

The applicant however, failed to submit any evidence that he meets the requirements for late registration as enumerated in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that the applicant was issued an Order to Show Cause (OSC) on August 7, 1989, by the Assistant Chief Patrol Agent in Detroit, Michigan, because he remained in the United States without permission beyond his authorized temporary stay of June 1, 1989. While under deportation proceedings before an Immigration Judge (IJ) in Detroit, Michigan, he filed a Form I-589, Request for Asylum in the United States, on March 30, 1990. His application for asylum was denied by the IJ on August 21, 1990 and the applicant was granted voluntary departure on or before October 21, 1990. The IJ's order further stated that the decision was final unless an appeal was filed on or before August 31, 1990. An appeal from that decision, however, was not filed until September 4, 1990.

An alien applying for TPS 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.