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U.S. Citizenship
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Services

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SEP 20 2007

FILE:

[REDACTED]

OFFICE: VERMONT SERVICE CENTER

DATE:

[EAC 06 060 70098]

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 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 registration. The director, therefore, denied the application on April 11, 2006. The applicant filed the current appeal from that decision on May 15, 2006.

On appeal, counsel submits a brief 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.

The record reveals that the applicant filed the current application with CIS on November 27, 2005, after the initial registration period had ended, and indicated that it was his first application to register for TPS.

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).

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 continuous physical presence and residence in the United States during the periods required by the regulations. The applicant submitted his response on January 23, 2006.

The VSC director determined that the applicant established his continuous physical presence and residence in the United States during the requisite periods; however, the applicant failed to establish his eligibility for late registration. Consequently, the director denied the application.

On appeal, counsel argues that the applicant attempted to file his application on October 3, 2005, with a request for a fee waiver, but the waiver application was erroneously denied by the Service. He further claims that the director's decision to deny the TPS application is in error and should be overturned as well.

However, counsel failed to address the issue, or submit any evidence, that the applicant 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.

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.