U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: BALTIMORE Date: APR 27 2004

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]

PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The application was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, claiming to be a native and citizen of Sierra Leone, is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The district director denied the application because the applicant failed to establish that she was a national or citizen of Sierra Leone.

On appeal, counsel asserts that the district director erred in denying the application where there was preponderance of evidence to establish that the applicant is a national of Sierra Leone. He further asserts that the applicant testified during the Service interview that she is a national of Sierra Leone and that she traveled with a Guinean passport to flee persecution from Sierra Leone because of the ongoing conflict. Counsel submits additional documentation, including a statement from the applicant.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 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 condition described in paragraph (f)(2) of this section.

Sierra Leone was designated under section 244(b) of the Act on November 4, 1997, with a redesignation on November 9, 1999, and subsequent designated extensions valid through May 3, 2004.

The term *continuously resided* as used 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 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.

The term *continuously physically present* as used 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.

8 C.F.R. § 244.9(a)(1) provides, in part:

> Each application must be accompanied by evidence of the applicant's identity and nationality. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of:
>
> (i) Passport;
>
> (ii) Birth certificate accompanied by photo identification; and/or
>
> (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The applicant claims on her application that she is a citizen of Sierra Leone. The record of proceeding contains the applicant's passport issued in Guinea on December 23, 1998, indicting that the applicant was born in Conakry, and is a national of Guinea. Contained in the Guinean passport are two Canadian visitor's visas, one issued on June 22, 1999, and the latter issued on August 27, 1999. The applicant was last admitted into Canada on September 1, 1999. On September 3, 1999, an A-2 nonimmigrant U.S. visa was issued to the applicant in Montreal, Canada. The U.S. visa indicates that the applicant is a national of Guinea and is accompanying her mother [redacted] the principal alien (A-2, foreign government official or employee coming to the U.S. and members of immediate family). The applicant was admitted to the United States as an A-2 nonimmigrant citizen of Guinea on September 8, 1999.

The district director determined that the applicant had not provided an acceptable explanation of how she obtained the passport or visa. He further determined that the statement from the Embassy of Sierra Leone in Washington, D.C., was unsupported by documentation from the applicant's claimed country of birth. The district director noted that the applicant submitted a birth certificate allegedly issued in Sierra Leone. However, this birth certificate was dated 15 years after her birth, and unsupported by any other documentation.

On appeal, the applicant, in a self-affidavit, states that she is a national and citizen of Sierra Leone, and that she traveled with a Guinean passport in order to flee persecution in Sierra Leone. She resubmits copies of the Sierra Leone birth certificate and the statement from the Minister Counselor & Head of Chancery, Embassy of Sierra Leone in Washington, D.C., previously furnished and addressed by the district director. It is noted that the Sierra Leone birth certificate and the statement from the Sierra Leone Embassy show that the name of the applicant's mother is The A-2 U.S. visa shows that the name of the applicant's mother is The applicant also submits a copy of a 10th grade examination results for May/June 1999, from St. Joseph's Secondary School, Freetown, Sierra Leone. This "examination result," without additional documentation, including, but not limited to, a school transcript or official evidence of her attendance at St. Joseph's Secondary School, is insufficient to establish that she is, in fact, a national of Sierra Leone.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. The credibility of the documents furnished to establish that the applicant is a national of Sierra Leone is questioned. The applicant had not submitted additional credible evidence on appeal, nor did she address the district director's findings.

In addition, while it was not mentioned in the decision of the district director, it also is noted that the applicant has provided insufficient evidence to establish her qualifying residence or physical presence during the requisite time periods.

The burden of proof is upon the applicant to establish that 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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.