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U.S. Citizenship
and Immigration
Services



M1

FILE:



Office: ATLANTA

Date:

JUN 07 2006

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:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Atlanta, Georgia, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 district director denied the application because the applicant failed to establish continuous residence in the United States since August 25, 2004, and continuous physical presence in the United States since October 1, 2004. The district director also noted that the applicant's date of birth on her birth certificate appears to have been altered and the applicant failed to submit a certified copy of her birth certificate as requested on two separate occasions, to affirmatively establish her identity and nationality.

On appeal, the applicant submits a statement.

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.

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.

On August 25, 2004, the Secretary of the Department of Homeland Security re-designated Liberia for TPS through October 24, 2004. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until October 1, 2006, upon the applicant's re-registration during the requisite period. 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 in the United States since August 25, 2004.

The initial registration period for Liberians was from August 25, 2004, to February 21, 2005. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on December 30, 2004.¹

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 Citizenship and Immigration Services (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).

The first issue in this proceeding is whether the applicant has established her qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods.

¹ It is noted that the applicant was previously granted Temporary Protected Status on June 5, 1998, under a prior designation of Liberia for TPS. That designation of Liberia for TPS terminated on October 24, 2004, and the applicant's Temporary Protected Status under the prior designation expired on that same date.

The reveals that the applicant was admitted to the United States at New York, New York, on November 2, 1994, as a nonimmigrant B-2 visitor, with stay authorized until May 1, 1995.

On April 28, 2005, the applicant was requested to submit additional evidence to establish her qualifying continuous residence and continuous physical presence in the United States and a certified copy of her Liberian birth certificate. The applicant, in response, submitted the following evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods:

1. a photocopy of her North Carolina Driver License issued on October 22, 2004, valid until December 24, 2008;
2. a photocopy of a billing statement from [REDACTED] with a due date of May 2, 2005; and,
3. a photocopy of a Cingular Wireless billing statement with a due date of April 15, 2005.

On May 20, 2005, the applicant was again requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant was also requested to submit a certified copy of her Liberian birth certificate. The applicant, in response, provided the following documentation:

4. a letter dated June 1, 2005, [REDACTED] Church Clerk of Greater Providence Baptist Church in Charlotte, North Carolina, stating that the applicant has been a member of her church since April 10, 1994;
5. a photocopy of a lease agreement with Brittany Apartments in Charlotte, North Carolina, for the period from October 31, 1996 to October 31, 1997; and,
6. a lease agreement a lease agreement with Brittany Apartments in Charlotte, North Carolina, for the period from August 1, 2004 to July 31, 2005.

The district director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on July 12, 2005.

On appeal, the applicant states that she has not left the United States since she arrived on November 2, 1994. She does not, however, submit any additional evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on this basis will be affirmed.

The second issue in this proceeding is whether the applicant has affirmatively established her identity and nationality.

Each application must be accompanied by evidence of the applicant's identity and nationality. Acceptable evidence in descending order of preference may consist of the alien's passport, a birth certificate accompanied by photo identification, and/or any national identity document from the alien's country of origin bearing photo and/or fingerprint. 8 C.F.R. § 244.9(a)(1).

In this case, the applicant submitted a photocopy of the biographic page of her Liberian passport reflecting her date of birth as December 24, 1953. The applicant also submitted a photocopy of a Liberian birth certificate reflecting her date of birth as December 24th; however, as noted by the director, the year, 195_”, appears to have been altered. The final digit of the year of birth is not clearly legible.

The applicant was requested on April 28, 2005, and again on May 20, 2005, to provide a certified copy of her Liberian birth certificate. The applicant, in response, provided the same photocopied birth certificate with the apparently altered year of birth.

On appeal, the applicant has once again failed to submit a certified copy of her Liberian birth certificate. She has, therefore, failed to affirmatively establish her identity and nationality as described at 8 C.F.R. § 244.9(a)(1). Therefore, the district director's decision to deny the application on this basis will also be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.