



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[EAC 05 364 70109]

OFFICE: Vermont Service Center

DATE: MAY 02 2007

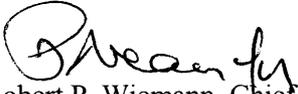
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: 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.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC). 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 director denied the application on the grounds that the applicant failed to establish she was eligible for late TPS registration, that she is a national of Liberia, and that she had continuously resided in the United States since October 1, 2002, and been continuously physically present in the United States from August 25, 2004, until the date her application was filed.

On appeal the applicant recounts her current and previous attempts to obtain TPS and requests that her case be reviewed.

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 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 had terminated in 1999). The initial registration period was October 2, 2002 – April 1, 2003. Liberia was re-designated for TPS on August 25, 2004. The initial registration period pursuant to the re-designation was August 25, 2004 – February 21, 2005. The TPS re-designation has subsequently been extended, and is scheduled to terminate on October 1, 2007. Liberian nationals applying for TPS under the foregoing designations must demonstrate continuous residence in the United States since October 1, 2002, and continuous physical presence in the United States from October 1, 2002, if they filed during the original designation, or August 25, 2004, if they applied during the re-designation, until the date the TPS application was filed.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above and that the application was filed with 60 days of the end of the qualifying condition, as required under 8 C.F.R. § 244.2(g).

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. *See* 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. *See* 8 C.F.R. § 244.9(b).

The record reveals that the applicant filed an initial Form I-821, Application for Temporary Protected Status, at the District Office in Charlotte, North Carolina, on October 9, 2003. On April 13, 2004, the district office sent the applicant a letter advising her that the initial registration period for TPS applicants from Liberia was October 2, 2002 – April 1, 2003, and requesting evidence that she had registered for TPS during that time period. The applicant did not respond to the foregoing letter within the requisite 12 weeks, and the district office proceeded to administratively close the application on October 14, 2004.

The applicant filed her current TPS application at the Vermont Service Center on September 28, 2005. The Director, VSC, sent the applicant a notice of intent to deny (NOID) on January 4, 2006, advising her that Liberia had been re-designated for TPS on August 25, 2004, and that the initial registration period pursuant to the re-designation was August 25, 2004 – February 21, 2005. The director also noted that on August 16, 2005, TPS designation for Liberia had been extended until October 1, 2006 (now scheduled to terminate on October 1, 2007). Since her application had not been filed during the initial registration period that closed on February 21,

2005, the applicant was requested to submit evidence that she was eligible for late TPS registration under one of the qualifying criteria enumerated at 8 C.F.R. § 244.2(f)(2) and filed her application within 60 days of the end of the qualifying condition in accordance with 8 C.F.R. § 244.2(g); that she was a Liberian national; that she had an established residence in the United States as of October 1, 2002; and that she had been physically present in the United States from August 25, 2004, to the date of filing her TPS application. The applicant was given 30 days to respond with the requested evidence.

After the applicant failed to respond to the NOID, the director denied the application of February 27, 2006. The director found that the applicant had failed to establish that she was eligible for late TPS registration; that she was a Liberian national; that she had continuously resided in the United States since October 1, 2002; and that she had been continuously physically present in the United States from August 25, 2004, until the date her TPS application was filed.

The AAO does not agree with the director's decision in regard to the applicant's nationality. The record includes a photocopy of the applicant's F-1 visa which contains biographical data, a personal photograph, and identifies her nationality as Liberian. Based on this document, the AAO determines that the applicant has established her Liberian nationality. Accordingly, this part of the director's decision is hereby withdrawn.

As for the other grounds of denial, the applicant asserts on appeal that she filed timely applications for TPS in 2001, in February 2003, and again in 2005. The record does not support the applicant's claim. With respect to 2001, the record shows that the applicant filed a Form I-765, Application for Employment Authorization (in conjunction with a Form I-765D, Liberian Deferred Enforced Departure (DED) Supplement to Form I-765), at the District Office in Charlotte, North Carolina, on November 20, 2001. The applicant was subsequently issued an Employment Authorization card on March 15, 2002, with a validity period of September 29, 2001 – September 28, 2002. The Form I-765 was not an application for Temporary Protected Status and the benefit granted – work authorization for one year – was not TPS. The AAO also notes that Liberia was not designated for TPS during 2001.

With respect to 2003, the record includes a photocopy of page one of a Form I-821, filled out by the applicant, with a receipt stamp of the INS (Immigration and Naturalization Service) office in Charlotte, North Carolina, dated February 28, 2003. Though that date was during the initial registration period for TPS applicants from Liberia, the box entitled "Fee Stamp" is empty and the succeeding pages of the application are missing. The regulation at 8 C.F.R. § 103.2(a)(7) provides that:

*An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and . . . shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted.*  
[Emphasis added.]

It does not appear, from the blank "Fee Stamp" box on page one of the application, that the required filing fee was attached by the applicant when she presented the Form I-821 to the Charlotte INS office. The signature page of the application is also missing. Thus, the partial application in the record does not appear to have been properly filed, in accordance with the requirements of 8 C.F.R. § 103.2(a)(7). Citizenship and Immigration Services (CIS)

has no record of a Form I-821 being filed by the applicant on February 20, 2003. The only Form I-821 properly filed by the applicant in 2003, was the one she filed with the District Office in Charlotte, North Carolina, on September 28, 2003. That was nearly six months after the close of the initial registration period, on April 1, 2003, during Liberia's previous designation for TPS.

With respect to 2005, the applicant states that she received a notice confirming the filing of her TPS application. The subject notice, dated October 6, 2005, relates to the Form I-821 the applicant filed at the Vermont Service Center on September 28, 2005. That date was more than seven months after the close of the initial registration period, on February 21, 2005, during Liberia's current re-designation for TPS.

Thus, the record indicates that the applicant did not file any TPS application during either of the initial registration periods at issue: i.e., October 2, 2002 – April 1, 2003, or August 25, 2004 – February 21, 2005. Nor has the applicant shown that during either of those registration periods she satisfied any of the qualifying criteria enumerated at 8 C.F.R. § 244.2(f)(2) to be eligible for late TPS registration.<sup>1</sup> Accordingly, the director's denial of the current application on the ground that the applicant has not established her eligibility for late TPS registration will be affirmed.

Based on the evidence of record, which has not been materially augmented on appeal, the AAO also concurs with the director's determinations that the applicant has failed to establish that she has continuously resided in the United States since October 1, 2002; and that she was continuously physically present in the United States from August 25, 2004, until the date her current TPS application was filed. In particular, the applicant has not submitted any of the types of documentation identified by the director in the NOID she issued on January 4, 2006, as necessary to establish her continuous residence and continuous physical presence in the United States. Accordingly, the director's denial of the application will be affirmed on these grounds as well.

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 Temporary Protected Status, or 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 that burden.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> The record reveals that the applicant was granted an F-1 student visa on December 3, 1999, valid for one year, and entered the United States on January 8, 2000, to study at Shaw University in Atlanta, Georgia. The applicant indicated on both of her late-filed TPS applications that her student status expired on December 2, 2000, and the record does not establish that her student status was ever extended or renewed after that date. On appeal the applicant acknowledges that she was no longer a student in 2001 when she filed her first application for an employment authorization document (EAD) based on Liberian Deferred Enforcement Departure (DED). The applicant was granted employment authorization for a one-year period ending on September 28, 2002, but it was not extended or renewed. The AAO notes that DED, as indicated on the Form I-765D, was only available to Liberians who were present in the United States as of September 29, 1999. Since she did not enter the United States until January 2000, the applicant was not eligible for DED.