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U.S. Citizenship
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Services

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FILE: [REDACTED] OFFICE: Vermont Service Center DATE: MAY 22 2007
[EAC 05 362 70197]

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:



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 ground that the applicant failed to establish he filed his TPS application during the initial registration period for Liberian nationals or that he was eligible for late TPS registration.

On appeal counsel asserts that the applicant filed a TPS application during the initial registration period, and submits some supporting documentation.

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 within 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 Vermont Service Center on September 26, 2005. On January 9, 2006, the VSC sent the applicant a letter advising him that the initial registration period for TPS applicants from Liberia pursuant to the re-designation was August 25, 2004 – February 21, 2005, and requesting evidence that he met one of the qualifying conditions for late registration enumerated in 8 C.F.R. § 244.2(f)(2), as well as evidence that he had an established residence in the United States as of October 1, 2002, and that he had been physically present in the United States from August 25, 2004, to the date his TPS application was filed. The applicant responded with some additional documentation on February 7, 2006.

On February 21, 2006, the Director, VSC, denied the application. After noting that the applicant had “submitted evidence of your residence and presence” in the United States, the director found that the applicant had not submitted any evidence that he filed a TPS application during the initial registration period or that he was eligible for late TPS registration.

On appeal counsel asserts that the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, in September 2004, followed by a TPS application in October 2004, which was within the initial registration period of August 25, 2004 – February 21, 2005. Counsel submits photocopies of the applications filed and notices to the applicant from the Citizenship and Immigration Services (CIS) offices handling the applications. This documentation, along with CIS records, confirms that the applicant filed an Application to Register Permanent Resident or Adjust Status (Form I-485) with the District Office in Providence, Rhode Island, on December 2, 2003 (not September 2004), which was denied by the Vermont Service Center on January 21, 2005, as well as an Application for Employment Authorization (Form I-765) with the Missouri Service Center in October 2004, which was approved on January 4, 2005, with a one-year validity period that expired on January 3, 2006. Neither of these applications was a Form I-821, Application for Temporary Protected Status. The application filed in October 2004 was a Form I-765, not a Form I-821, and the benefit granted to the applicant was work authorization for one year, not TPS.

The record shows that the applicant filed his current TPS application with the VSC on September 26, 2005, which was seven months after the close of the initial registration period of August 25, 2004 – February 21, 2005, pursuant to the re-designation of Liberia for TPS.¹ The applicant has not shown that he satisfied any of the qualifying criteria enumerated at 8 C.F.R. § 244.2(f)(2) and (g) to be eligible for late TPS registration.² Accordingly, the director's denial of the current application on the ground that the applicant did not file during the initial registration period and has not established his eligibility for late TPS registration will be affirmed.

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.

¹ CIS records reveal that the applicant, who entered the United States in 1991, was approved for TPS on October 30, 1991, and was regularly granted TPS extensions until Liberia's TPS was terminated in 1999. There is no record that the applicant ever re-applied for TPS when Liberia was re-designated as a TPS country, starting in 2002.

² The Form I-485 application did not make the applicant eligible for late registration under 8 C.F.R. § 244.2(f)(2)(ii) because it was denied in January 2005 and the applicant did not file his Form I-821 until eight months later, in September 2005, which was not within the 60-day filing requirement of 8 C.F.R. § 244.2(g).