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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
[EAC 07 047 70140]

OFFICE: Vermont Service Center

DATE: SEP 14 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:

[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). It is now on appeal before the Administrative Appeals Office (AAO). An earlier application was denied by the District Director in Dallas, Texas. The earlier application will be reopened *sua sponte* by the AAO, the District Director's decision withdrawn, and the application approved. The appeal on the subsequent application will be sustained, the VSC Director's decision withdrawn, and the application approved.

The applicant is a national 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 denied the current application on the ground that Citizenship and Immigration Services (CIS) records did not indicate the applicant had registered for TPS during the latest re-designation period for Liberian nationals or during the first extension period, and late initial filings are not allowed during the current termination period of TPS for Liberia.

On appeal the applicant asserts that she had never previously been late on a filing deadline and that the current application is not an initial filing. The applicant indicates that she has lived in the United States for many years, and requests that her appeal be sustained.

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.

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. On August 16, 2005, the TPS designation was extended to October 1, 2006. The initial registration period for the extension was August 16, 2005 – October 17, 2005. On September 20, 2006, CIS announced the termination of TPS for Liberia, effective October 1, 2007. Extensions of TPS until that date were restricted to aliens who were already TPS registrants or had applications pending. The registration period for these final extensions was September 20, 2006 – November 20, 2006.

The record shows that the applicant was originally approved for TPS during the 1990s, and was approved again on January 3, 2003, based on an application she filed in December 2002. On February 3, 2005, during the initial registration period after Liberia's re-designation for TPS in August 2004, the applicant filed another TPS application. On June 15, 2005, the District Director in Dallas, Texas, denied the application on the ground of abandonment, citing the regulation at 8 C.F.R. § 103.2(b)(13), after the applicant failed to appear for fingerprinting during a one-month window that was given her in a notice dated March 16, 2005, and did not request a rescheduling. The District Director advised the applicant that the decision could not be appealed, but that a motion to reopen could be filed within 30 days. No such motion was filed by the applicant.

The applicant filed her current TPS application [EAC 07 047 70140] at the VSC on November 15, 2006, during the registration period for final extensions of TPS for Liberian nationals. On February 20, 2007, the VSC Director denied the application on the ground that the applicant had not registered for TPS during the initial registration period (August 25, 2004 – February 21, 2005) pursuant to Liberia's re-designation for TPS, or during the registration period (August 16, 2005 – October 17, 2005) prescribed for the first extension of TPS, which made the current application a late initial application that is not allowed during the termination period for Liberia. The VSC Director indicated that TPS could be granted to aliens who filed during the registration period for final extensions only if they already held TPS or had a TPS application pending at that time.

CIS records show that the applicant has now been fingerprinted. Data from the Federal Bureau of Investigation (FBI) indicates that the applicant's fingerprints were taken on June 7, 2007, in connection with her filing of a

Form I-485 (application for permanent resident status), and that no criminal record has been identified. Thus, the ground for denying the application filed with the District Office in Dallas, Texas, in February 2005 has been overcome. The record does not reveal that the applicant is inadmissible to the United States on any other grounds. In accordance with the regulation at 8 C.F.R. § 103.5(a)(5), the AAO will reopen that earlier proceeding *sua sponte*, withdraw the District Director's decision of June 15, 2005, and approve the application. With the approval of the applicant's petition filed in February 2005, the ground for denial of the current TPS application [EAC 07 047 70140] filed in November 2006 has also been overcome. Accordingly, the AAO will withdraw the VSC Director's decision of February 20, 2007. The appeal will be sustained, and the application approved.

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 met that burden.

ORDER: The TPS application filed on February 3, 2005 is reopened *sua sponte*, the District Director's decision of June 15, 2005, is withdrawn, and the application is approved. The VSC Director's decision of February 20, 2007, on the TPS application filed on November 15, 2006 [EAC 07 047 70410] is withdrawn. The appeal is sustained, and the application is approved